International Labour Organization

The system of labour administration in Suriname

(2nd revised edition)

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by Glenn Piroe

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Foreword

This publication presents an overview of the current public administration bodies responsible for / involved in labour administration. It includes the institutional framework for coordinating activities of such bodies as well as for consultation and participation by employers' and workers' organizations. In 1981, Suriname ratified the International Labour Organization (ILO) Convention No.150 on Labour Administration, 1978. The roles and effective functioning of labour administration has been motivated by this standard. Growing awareness of the role, place and impact of the labour administration function in the national economy and the national socio-economic policy have changed the face of labour administration.

Changes have occurred in the system due to the evident impact of the Decent Work Agenda through the Decent Work Country Programmes that were implemented in Suriname. New institutions were established while there was a robust development in the area of the national labour standards and the further commitment to the core labour standards of the ILO. The system of labour administration remains under construction as shortcomings were revealed by pandemic-related loss of life, economic inactivity, and considerable income losses.

The roles of Ministries of Labour and institutionalized social dialogue should be strengthened. Regional cooperation based on solidarity remains crucial. In this regard harmonization is important along with knowledge of the capacities, roles and potentials of the Ministries of Labour in our region. We hope this publication will be instrumental for the deepening of previously agreed regional cooperation and coordination between Ministries of Labour across the region. We hope it will aid the Government in integrating labour, health, education, and economic policies with social partners assessing their role within the system of labour administration.

Chapter 1 presents a brief historic background of the institution of labour administration in Suriname. Chapter 2 includes some constitutional provisions and statutory requirements and contains specific aspects of the labour relations in Suriname. Chapter 3 outlines the general functions of the primary institutions of labour administration, including those residing within the Ministry of Labour. A brief description is presented of the institutions within the system of labour administration in Chapter 4. Chapter 5 summarizes the principles of the ILO Conventions ratified by Suriname. Chapter 6 presents in summary, the principal provisions in several laws of the labour legislation. The Labour Inspection Act is not included in Chapter 6 since its provisions are already discussed in paragraphs 3.5, 3.6 and 3.7.

This publication is meant to function as an evaluation tool and to be a useful guide for Government agencies, employers, workers, investors and key players in the labour and industrial relations environment.

This publication is written by Glenn Piroe, Deputy Permanent Secretary on Legal and International Affairs, serving in the Ministry of Labour, Employment Opportunity and Youth Affairs in several roles for more than 24 years. I wish to express my appreciation to him as well as to the officials of the ILO Decent Work Team and Office for the Caribbean and our officials for their commendable efforts in producing this handbook.

The Honourable Rishma N. Kuldipsingh
Minister of Labour, Employment Opportunity and Youth Affairs
Suriname
November 2021

Photo by UNDP Suriname

Preface

An effective system of labour administration secures the rights of workers and employers and involves them in decision-making and conflict resolution. Knowing and understanding these rights go a long way into shaping and ensuring the maintenance of harmonious relations between the parties, while fostering their participation and cooperation. Publications like this one therefore play an important role in making such information easily accessible to all.

This publication *"The system of labour administration in Suriname"*, was first presented in 2006 by a team led by Glenn Piroe. Fifteen years later, this 2nd revised edition provides a comprehensive and current outline of the system currently in use in the country.

The work environment, influenced by many factors including the ratification of old and new International Labour Standards, has indeed changed drastically since the publishing of the 1st edition. With the current workforce being more diverse than ever before, policies on safety, health and gender equality, have altered the way that labour administration functions. Unprecedented challenges, like the COVID-19 pandemic, have also brought socio-economic and humanitarian challenges that must be addressed by labour administrations as they continue to adapt.

It is my belief that all workers, employers, and members of the labour administration bodies in Suriname and beyond will benefit from the information presented herein.

Dennis Zulu
Director
ILO Decent Work Team and Office for the Caribbean
March 2022

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Acknowledgements

Since the first publication of *The system of labour administration in Suriname* in 2006, many institutional-level changes have taken place. Legislation and the ratification of international labour standards changed due to the introduction of the Decent Work Country Programme 2014-2016. This second revised edition of the publication aims at bridging the gap that has been building for 15 years.

The labour administration system in Suriname is large and diverse, comprising staff of specialized competencies, skills and expertise, many of whom were consulted in the preparation of this book. They were:

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Abbreviations

AAC	Labour Advisory Board
AFSA	Associatie van Surinaamse Fabrikanten
BR	National Labour Mediation Council
CARICOM	Caribbean Community
CBA	Collective Bargaining Agreement
CBAA	Collective Bargaining Agreements Act 2017
CC	Civil Code
CIP	Centre for Innovation and Productivity
CLA	Child Labour Act
COLA	Contract Labour Act
CSNA	Free Movement of CARICOM Skilled Nationals Act
DB	Dismissal Board
DNA	The National Assembly
FEHOMA	Organized Consultation of the Federation of Senior and Mid-Level Officials
FOA	Freedom of Associations Act
GB	Gouvernementsblad
GPA	General Pension Act
HA	Holidays Act
I-G	Inspector-General
ILO	International Labour Organization
LEA	Labour Exchange Act 2017
MOP	Multi Annual Development Plan
MPA	Maternity Protection Act
MWA	Minimum Wage Act
NBCA	National Basic Care Act
NCCLS	National Commission on the Elimination of Child Labour State Decree
NCUK	National Commission on the Elimination of Child Labour
NRB	The National Board for Occupational Health
NV	Naamloze Vennootschaps
OAS	Organization of American States
OSHA	Occupational Safety and Health Act
PBF	Parental Benefits Fund
PEAA	Private Employment Agencies Act

PES	Public Employment Service
PS	Permanent Secretary
RACO	The Board for Cooperatives
RAVAKSUR	Raad van Vakcentrales
RBG	Industrial Health Services
SAO	Foundation for Labour Mobilization and Development
SB	Staatsblad
SER	Social and Economic Council
SHTTC	Suriname Hospitality and Tourism Training Centre Foundation
SIVIS	Suriname Labour College
SOR	Industrial Accidents Act
SPWE	Foundation for Productive Work Units
TA	Tobacco Act
VELMEK	Teachers' Secondary and Higher Education Union
VSB	De Vereniging Surinaams Bedrijfsleven
WAP	General Pension Act
WHO	World Health Organization
WPA	Work Permit Act
WTBAI	Private Employment Agencies Act

1

Background

The earliest clear signs of a system of labour administration in Suriname appeared in 1946 within the Ministry of Social Affairs and Immigration. This Department was given the task to advance good industrial relations in Suriname. In that year the National Labour Mediation Council was established by the Labour Mediation Act. The development of a more separate and independent labour administration in Suriname is, however, closely linked to upheaval in the trade union movement during the second half of the twentieth century. In 1967, the Ministry of Social Affairs and Labour was proclaimed with the Honourable Johan S.P. Kraag as Minister until 1969. Discontent related to low wages since 1959 led to a teachers' strike in 1966. While this situation remained unchanged, the policy towards an integrated approach resulted in the establishment of the Organized Consultation of the Federation of Senior and Mid-Level Officials (FEHOMA) in the civil service. The unilateral amendment of education standards and disciplinary action against protesting members of the Teachers' Secondary and Higher Education Union (VELMEK) worsened the relations with the Minister of Education and the Government, leading to the biggest teachers' strike in the history of Suriname in 1969.

Prohibition of demonstrations and gatherings, closing of schools, disciplinary actions against teachers, prosecution and stoppage of the wages of civil servants on strike, were amongst the measures taken by the Government. As a result, 47 trade unions of the private sector expressed their feelings of solidarity with the actions of the teachers and civil servants. These 47 trade unions established the C-47 Vakcentrale, a Federation which still exists today. Because of their pressure on the Government, the Prime Minister, who was also the President of the largest federation of trade unions, De Moederbond, and his team of Ministers, resigned.

During the consultation regarding the formation of the new Government following the elections, the trade unions expressed the importance of the institution of a ministry of labour. On 5 March 1969, a separate Ministry of Labour was again established in Suriname (Labour and Public Housing). The President of FEHOMA, Mr A. Biswamitre, became the first Minister of Labour, after serving in the same position in the preceding months in the interim Government. The official establishment and proclamation of the Ministry of Labour however, took place on 27 January 1970. The Labour Inspection Unit, which was part of the Ministry of Social Affairs and Immigration since 1946, became an important Department of the Ministry of Labour.

Like Biswamitre, the majority of Ministers of Labour subsequently came from the trade unions, given the trade unions' involvement in politics and Government of the relatively new Surinamese Labour Party (SPA) from 1987. In the pre-election period in 2000, technological development and the environment were

relevant issues. These issues were addressed in the Policy Declaration 2000-2005 of the Government where the responsibility of a new Ministry of Labour, Technological Development and Environment was defined and proposed. It was consequently created in 2002 by State Decree Terms of Reference Departments of Government, lasting until 2015. In 2015, a stand-alone Ministry of Labour was proclaimed with the same labour responsibilities and tasks as mentioned in the State Decree until 2020. In 2020, the Ministry of Labour, Employment Opportunity and Youths Affairs was established, and the labour tasks and responsibilities were reviewed and amended based on the concept of Decent Work.

Labour policy in Suriname is usually formulated for five years, which is the Government's term of office. The national labour policy is specifically expressed in the Policy Declaration of the Government. This part of the Policy Declaration is then specified in detail in the Policy Document of the Ministry of Labour for five years and contains the measures and actions that the Minister of Labour intends to take in order to implement the national labour policy. The Multi Annual Development Plan or the Development Plan contains the outlines for socio-economic policy for five years.

An important part of the general labour policy is executed by way of adoption and enforcement of labour legislation and the execution of employment programmes. The labour legislation contains rules regarding areas such as working conditions, industrial relations, and social security.

National labour policy includes laws enacted by The National Assembly (DNA), state decrees, presidential resolutions, ministerial orders, and international labour conventions. In addition, the Constitution of the Republic of Suriname provides for the involvement of labour unions in the preparation of labour legislation (article 31, paragraph 2a) in consultation with the Labour Advisory Board (AAC) on matters regarding labour legislation. It also requires the involvement of labour unions in the preparation and the supervision of the implementation of social and economic plans (article 31, paragraph 2c).

The Ministry of Labour is entrusted exclusively with the task of supervising the observance of legislation protecting labour and workers. More specifically, the Labour Inspectorate and its labour inspectors have, as one of their core obligations, to supervise and enforce the observance of legislation on the protection of workers by performing their lawful duties.

The Ministry of Labour is also entrusted with the supervision and review of some forms of social security that are laid down in labour legislation such as payment during sickness, benefits in case of occupational injury and diseases including medical care under the Industrial Accidents Act and benefits with regard to the Maternity Protection Act.

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General considerations and statutory requirements

2.1 The Constitution

Several provisions of the Surinamese Constitution outline the importance of employment in the Surinamese society:

- The State shall provide for enough employment in freedom and justice (articles 4, paragraph c and 24).
- Labour is the most important means of achieving wealth and individual human development (article 25).
- Everyone has the right to work, according to his capacities (article 26, paragraph 1).
- The right to work is closely related to the obligation to work (article 26, paragraph 2).
- Everybody has the right to freely choose a job or profession according to existing rules (article 26, paragraph 3).
- The State has to guarantee the right to employment by executing a policy to achieve full employment, prohibiting dismissal without reason or on religious or ideological grounds, securing equal opportunities in employment for both sexes and promoting vocational training (article 27).
- The rights for all workers regardless of age, sex, race, nationality, religion or political belief including:
  - the right to pay, depending on quantity, quality and type of labour and experience, based on the principle of equal pay for work of equal value;
  - the right to perform labour under decent working conditions in order to enable individual human development;
  - the right to safe and healthy working conditions; and
  - the right to sufficient rest and recreation (article 28).

- Special protection should be given to certain categories of workers such as pregnant women, minors, persons with disabilities and workers involved in high-risk labour (article 29, paragraph b).
- The Constitution acknowledges the importance of maternity and declares women's right to paid maternity leave (article 35 paragraphs 5 and 6).

The employment policy in Suriname is an integral part of the social and economic policy and the labour policy. The formulation of the employment policy in the Policy Declaration is based on the Election Programme – the declaration of policy intentions before the election – of the ruling party or parties after consultations with the social partners.

2.2 Labour relations

Good industrial relations have always been important in the overall national policy and an evident pre-condition for social stability. Consultations between new governments, sectors of the labour union movement and employers are essential for formulating government policy, especially where it relates to socio-economic and labour policy. Intensive consultations by new governments, with several segments of the labour union movement and employers, are essential for the preparation and formulation of the overall government policy in general, and especially the socio-economic and labour policy.

The responsibility of the Government to foster good labour relations is motivated by constitutional provisions. The social objectives of the State, as outlined in the Constitution, include:

- the promotion of the workers' participation in decision-making in enterprises on production, economic development and planning (Constitution, Article 6, paragraph f);
- the freedom of workers to establish labour unions to promote their rights and interests (article 30, paragraph 1);
- requirements for labour unions to be governed by principles of democratic organization and management, based on regular elections of board members by secret ballot (article 30, paragraph 3);
- the right to conclude collective bargaining agreements (CBAs) (article 31);
- the right of employers' organizations to promote and defend their rights and interests (article 32); and
- the right to strike, subject to legal restrictions (article 33).

According to the State Decree on the Terms of References of Departments of Government (2020), the Minister of Labour is responsible for the promotion of sound industrial relations and for the policy on the relationship between employers and workers, as well as for the supervision of the observance of the relevant legal regulations.

2.3 Trade union rights and duties

Trade union rights are laid down in Chapter VI of the Constitution on Social, Cultural and Economic Rights and Duties, and in the Collective Bargaining Agreements Act 2016 and the Freedom of Associations Act of 2016.

Trade unions, which are corporate bodies, have:

- the exclusive right to conclude collective bargaining agreements and to amend or extend an existing one (CBAA, articles 1 and 4);
- the right to be assisted by the National Mediation Council to conclude a new collective bargaining agreement or to amend or extend an existing one (CBAA, article 1, paragraph 3);
- the right to bring claims for damages to the union or its members against the party or own members who act contrary to the provisions of the agreement (CBAA, article 17, paragraph 1);
- the duty to furnish a copy of the concluded collective bargaining agreement to its members (CBAA, article 5);
- the duty to notify the Ministry of Labour of the conclusion, amendment or extension of a CBA (CBAA, article 24, paragraph 1);
- the duty to submit a certified copy to the Ministry of Labour by the employer (CBAA, articles 9, paragraphs 1 and 24, paragraph 2); and
- the duty to promote compliance with the provisions of the agreement by the members (CBAA, article 10, paragraph 1).

Pursuant to Article 14 of the Freedom of Associations Act (FOA), the employer is obliged and the labour union has the right to enter into collective bargaining with the employer if:

1. the union is a corporate body;
2. the constitution/rules of the union empower it to conclude collective bargaining agreements; and
3. the union is recognized as the bargaining agent for the workers in an enterprise.

This means that only one collective bargaining agreement is concluded within one enterprise by one union. In case of more labour unions in one enterprise or justifiable doubt about the representation of one union, a referendum is concluded by the National Labour Mediation Council (FOA, articles 15-18). The employer is then obliged to enter into negotiations with the union on collective bargaining agreements as certified by the National Labour Mediation Council.

Workers and employers without any distinction whatsoever have the right to establish and to join organizations of their own choosing without previous authorization (FOA, article 2, paragraph 1), based on ILO Convention No. 87. Paragraph 2 states that workers have the right to freely participate in the establishment, activities, become a member or a representative and to assist workers. Workers' and employers' organizations are free to draw up their constitution and rules, elect their representatives in full freedom, organize their administration and activities and to formulate their programmes (FOA, article 3 paragraph 1). Based on ILO Convention No. 135, the FOA guarantees protection to workers' representatives and workers by prohibiting employers to take actions prejudicial to them because of their position as union officers, their union membership, or their participation in the labour union activities, including those in pursuit of collective bargaining (article 4).

In pursuance of article 13 of the FOA, the employer shall provide adequate facilities to trade union representatives without impairing the efficient operation of the enterprise. This should enable the representatives to properly fulfil their union responsibilities. Employers and workers are obliged to have negotiations with regard to the facilities.

The FOA (article 5) provides for protection to the labour unions against interference by the employers or their organizations. Labour unions, under the domination of employers or their organizations, are not considered as legitimate trade unions if the establishment of the union has been promoted by

employers or is supported by financial means of the employers or their organizations (FOA, article 5 paragraph 2 and BAA article 2, paragraph 1).

The freedom of association and peaceful assembly is protected in a special way and clauses in the collective bargaining agreement to restrict or deny this right are null and void (CBAA, article 3, paragraph 2 and FOA article 3, paragraph 2). The labour union is only responsible or liable for acts of members as far as such is stipulated in the collective bargaining agreement (CBAA, article 10, paragraph 2). Dissolution of a labour union, party to a collective bargaining agreement, does not affect the rights and duties in the agreement (CBAA, article 13, paragraph 1).

2.4 Collective bargaining agreements and standing employment conditions

Collective bargaining agreements

Collective bargaining agreements have a long history but are not widespread in Suriname. They are the expressions of a labour union and the progress made by employers' and workers' organizations in their cooperation, not only on matters relating to working conditions, but also on labour relations. They express the joint responsibility and commitment of both parties.

A collective bargaining agreement is, according to the law, an agreement concluded by one or more employers or one or more organizations of employers possessing legal personality, and one or more organizations of workers possessing legal personality, regulating exclusively or primarily working conditions to be taken into account when employment contracts are concluded (CBAA, article 1, paragraph 1). Collective bargaining agreements in Suriname are usually concluded between one employer, one enterprise and a workers' organization representing the workers of the enterprise. Industry level collective bargaining is unknown in Suriname.

Enterprises have separate employment agreements with their workers, which can differ greatly from other agreements of other enterprises in the same sector. It is prohibited for parties concluding a collective bargaining agreement, to stipulate the following:

1. requiring the employer to only employ or to reject persons on the grounds of race, nationality, religion or membership of associations, including labour unions; and

2. restricting the right of workers to freedom of association and peaceful assembly (CBAA, article 3).

The concluding of collective bargaining agreements or their amendment or extension takes place by officially certified public deeds or private instruments (CBAA, article 5). A collective bargaining agreement can be concluded for the duration of three consecutive years. However, if no provision is made in the collective bargaining agreement for a definite period, it is considered to be in force for the fixed term, but no longer than one year.

The Civil Code (CC) contains some provisions on the employment relationship to which exceptions or varying stipulations can be made only by means of collective bargaining agreements or standing employment conditions. The employer can only charge a fine if the relevant provisions and the fine are specifically mentioned in a written agreement or the standing employment conditions (CC, article 1613u, paragraph 1).

A non-competition clause is only valid if it is part of a written agreement or the standing employment conditions (CC, article 1613x, paragraph 1).

Collective bargaining agreements can extend existing minimum notice periods in the CC (article 1615i, paragraph 5). According to the CC, the employee remains entitled to remuneration in case the employer is not able to redeploy the employee who is willing to work (article 1614d, paragraph 1). Deviation from this rule is only possible by written agreement or standing employment conditions (article 1614d, paragraph 2).

A first fixed-term employment contract expires without the requirement of prior notice to terminate it. This is only required if stipulated in a written agreement or standing employment conditions (article 1615e, paragraphs 1 and 2.1).

Subjects included in most collective bargaining agreements are:

- lockout by the employer;
- rules of strike by the employees;
- legal status of the employer (management, employment) and the union (functioning, recognition, contribution, representatives, free time for union activities without loss of remuneration);
- communication;
- employment security;
- dispute settlement procedures;
- financial contribution to workers' representatives training;
- human resources management;
- job description;
- union membership;
- medical testing;
- safety and health;
- uniforms;
- transportation;
- transfer;
- employment contract;
- termination;
- temporary staff;
- work organization;
- code of conduct;
- personnel data;
- training;
- ancillary function;

- confidentiality;
- working time;
- overtime;
- finance (salary, performance incentive, holiday pay, pension, sickness, invalidity, study); and
- disciplinary measures.

Standing employment conditions

Standing employment conditions are additional conditions to the collective bargaining agreement or to an employment contract. The workers have to express their acceptance or non-acceptance of these conditions (CC, article 1613j, paragraph 1). If not intended to function as such, the standing employment conditions are mere unilateral instructions of an employer in pursuance of his relationship of authority. Non-acceptance of a new standing employment condition or an amendment can be considered as a notice of termination of the employment by the worker (CC, article 1613k, paragraph 2).

According to article 1613j of the CC, standing employment conditions should satisfy the following requirements:

1. the conditions should be in Dutch;
2. the workers have to declare whether or not to accept them;
3. a full copy should be given free of charge to every worker;
4. the conditions should be submitted to the court registry for public inspection;
5. the complete text of the standing employment condition should be made clearly visible and easily
6. accessible on the industrial premises; and
7. the standing employment conditions are not in contradiction with the employment contract.

2.5 Dispute settlement

The Labour Mediation Act of 1946 was established within labour administration, the National Labour Mediation Council (BR), to deal with the settlement of labour disputes. The BR has the task to promote the peaceful settlement and the prevention of labour disputes, which means any dispute between workers, and one or more employers regarding labour matters.

The BR can exercise the following functions:

- mediation/conciliation;
- arbitration;
- assistance to arbitration tribunals of the parties concerned; and
- advisory service.

Mediation/conciliation

Disputes resulting in or with the possibility of strikes or lockouts are the more relevant disputes. According to the law, the District Commissioner of the district in which the employer's business is

located, has to report such disputes to the BR. Interested parties, including workers or employers engaged in such disputes, or their organizations possessing legal personality, can also request the BR to intervene.

The involvement of the union is not possible in cases where the worker has been a member of the union for less than three months. The BR only intervenes upon request if the dispute is considered serious and substantial. Otherwise, the BR informs the parties concerned and offers its advisory services.

The BR refrains from (further) intervention by mediation/conciliation of a dispute if:

1. the parties have made provisions for their own mediators, mediation committees or arbitrators except when it is evident that that intervention will not lead to a speedy resolution;

2. the dispute is incited by one of the parties in order to induce the other party to deviate from an existing collective bargaining agreement or judgement of an arbitrator, mediation committee or mediator; and

3. the dispute is subject to a lawsuit.

The BR has the power to request workers, employers or the board members of their organizations possessing legal personality, witnesses, and experts to appear before the BR. Upon request, these persons are obliged to appear before the BR. If the BR resolves the dispute, a deed is prepared and signed by both parties and the members of the BR.

The National Labour Mediation Council as an arbitration tribunal

Parties involved in a dispute can agree to abide by the award/judgment of the BR as an arbitration tribunal. They notify the BR of such intentions and request the BR to serve as an arbitration tribunal.

A deed has to be prepared on the agreement by parties to abide by the award/ruling of the BR as arbitration tribunal containing certain particulars required by the Labour Mediation Act (article 18), including the declaration of parties to abide by any award/ruling of the BR regarding any dispute.

The National Labour Mediation Council assisting arbitration tribunals of parties

In case of a dispute, relevant parties can request the involvement of their already-established arbitration committee. They can also establish a committee to resolve a dispute, which has arisen between them. The chair of the BR can render assistance to the parties.

A deed has to be signed by the parties in the presence of the chair of the BR containing similar information as if BR was arbitrating the matter. The chair of the BR supervises the arbitration process of the committee and approves the voluntary withdrawal of an arbitrator. The chair also relieves an arbitrator from his/her responsibilities if he/she has difficulty in the speedy resolution of the dispute.

When parties are not able to agree on the arbitration committee, the chair of the BR provides other persons to serve on the arbitration committee. If there is a case of a challenge of an arbitrator by one party, the chair of the BR decides if that arbitrator is to be appointed. According to the Labour Mediation Act, the chair and members of the BR are not allowed to act as members of arbitration committees. The chair of the BR can obtain additional information for the committee and has the power to hear persons under oath if necessary. Awards/judgements of such arbitration committees are binding on all the concerned parties.

The advisory function of the National Labour Mediation Council

The BR can, on the request of workers and employers, give assistance regarding collective bargaining agreements, to promote good industrial relations or prevent disputes.

2.6 Tripartite consultation

In 1979, Suriname ratified ILO Convention No. 144 on Tripartite Consultation (International Labour Standards), 1976. Although this Convention specifically concerns the tripartite cooperation on standards of the ILO, its ideology and the use of the term "tripartite" (known to the Surinamese society since the colonial period) impacted on the whole spectrum of labour within the labour administration.

The positive experience with existing tripartite institutions in Suriname motivated the legal establishment of a high-level institution. The constitutional Social and Economic Council (SER) became a body for wider economic and social policy issues potentially leading to tripartite or bipartite agreements. The SER consists of representatives of Government and the social partners - trade unions and employers and their organizations, and other interest groups in civil society.

The system of labour administration contains the tripartite Labour Advisory Board which is an advisory body for the Minister of Labour regarding laws and all policy matters with regard to labour.

Although most of the tripartite institutions within the labour administration are autonomous legal entities, the Ministry of Labour completely or partially provides for the financial needs. Furthermore, the highest organs within the institutions – the supervisory boards – are accountable to the Minister of Labour, who appoints his/her representatives to these organs. The Minister of Labour also gives policy guidance and facilitates the effective and efficient functioning of these institutions.

the trade unions' involvement in politics and Government of the relatively new Surinamese Labour Party (SPA) from 1987. In the pre-election period in 2000, technological development and the environment were relevant issues. These issues were addressed in the Policy Declaration 2000-2005 of the Government

3

The organization of labour administration

3.1 The Government

The Republic of Suriname is a democratic State based on the principles of sovereignty of its people, and respects and guarantees fundamental principles and rights. The National Assembly (the legislature, representing the people of the Republic of Suriname) is the highest organ of State with 51 elected members. The people directly elect these members. The National Assembly and the Government exercise the legislative power together.

The Government consists of the President, the Vice-President and the Council of Ministers. The Council of Ministers is the highest executive and administrative organ of the Government headed by the Vice-President who is accountable to the President. Under the Council of Ministers, sub-councils are instituted such as the Social Security Sub-Council. Relevant Ministers participate in the sub-councils and they can be assisted by a Technical Committee consisting of experts of the relevant ministries.

The President is Head of State and Head of Government and is accountable to the National Assembly. The National Assembly elects the President and the Vice-President for five years. The President is constitutionally empowered to appoint the Council of Ministers after consultations based on the elections and can remove any of them from Office.

3.2 The Minister of Labour, Employment Opportunity and Youth Affairs

The Terms of Reference of the Ministry of Labour was officially proclaimed on 27 January 1970 by State Decree. While this State Decree has been amended several times, the terms of reference regarding labour remained unchanged until 2020. According to this State Decree, which was amended in 2020, the Minister of Labour, Employment Opportunity and Youth Affairs is responsible for the Ministry of Labour, Employment Opportunity and Youth Affairs.

The Minister is by law entitled to create organizational structures with heads of departments and service units with the approval of the Council of Ministers. The Minister is also by law entitled to:

- appoint, suspend and dismiss personnel;
- grant subsidies, contributions, gratifications, indemnifications, compensations, salary increases and bonuses;
- decide on other matters regarding the key tasks that the Ministry of Labour is entrusted with and which does not explicitly require the approval of the Council of Ministers or the President;
- assign major responsibilities to senior officials after approval by the Council of Ministers;
- grant permits for overtime work exceeding certain limits and beyond the power of the Inspector-General;
- decide on appeals against decisions of the Labour Inspection regarding the Labour Code (Labour Code);
- grant dismissal permits via the Dismissal Board, or in the case of dismissal on urgent grounds, to object or approve (Dismissal Act 2018);
- order the closure of enterprises hesitating or objecting against submitting
- evidence regarding obligations of employers' liability insurance on occupational accidents and diseases (Industrial Accidents Act);
- register collective agreements and any amendments and termination of collective bargaining agreements (Collective Bargaining Agreements Act 2016);
- decide on appeals concerning refusal of work-permit applications (Work Permits Act);
- decide on appeals concerning refusal of the private employment agency permit applications (Private Employment Agencies Act); and
- decide on appeals concerning refusal of the labour exchange permit applications (Labour Exchange Act 2017).

3.3 The Permanent Secretary

The Permanent Secretary (PS) gives policy direction to the operational activities of the Ministry of Labour, in addition to some special tasks and responsibilities in keeping with labour laws such as to:

- grant exemption from the prescribed manner of taking leave (Holidays Act);
- decide on disputes regarding holidays or pay on holidays (Holidays Act);
- grant or withdraw permits on the engagement of some machines and equipment in enterprises (Occupational Safety and Health Act);
- seal and unseal machines and equipment, deemed to be hazardous for the safety and health of workers (Occupational Safety and Health Act);

- grant and withdraw work permits (Work Permits Act);
- grant and withdraw the private employment agency permit applications (Private Employment Agencies Act);
- grant and withdraw the labour exchange permit applications (Labour Exchange Act 2017).

3.4 The Ministry of Labour, Employment Opportunity and Youth Affairs

The Ministry of Labour, Employment Opportunity and Youth Affairs (the Ministry of Labour) has the legal mandate to:

- implement all matters regarding the responsibilities of the Minister by virtue of contract;
- implement all matters that the Ministry is specifically entrusted with;
- prepare legislation regarding matters of the Ministry, in close cooperation with the Ministry of Justice and Police;
- implement education and training programmes for the departments or services of the Ministry which are not the responsibility of the Ministry of Education and Public Development; and
- implement the Government labour policy and related development plans.

According to the State Decree on the Terms of References of Departments of Government of 2020 (SB 2020 No. 191), the Ministry of Labour, Employment Opportunity and Youth Affairs is entrusted with the following specific tasks regarding labour and related issues:

- the policy with regard to the industrial relations between employers and workers and the supervision of the compliance with relevant legal provisions, including those concerning collective bargaining, social dialogue and freedom of association;
- supervising compliance with statutory regulations on labour protection and/or the labour inspectorate;
- evaluating the operation of labour legislation and any adjustment thereof after consultation with relevant stakeholders;
- the active provision of technical and legal information, guidance and education to target groups with regard to labour law;
- the policy on the fundamental labour Conventions with regard to child labour, forced labour, equal treatment and freedom of association and assembly;
- monitoring the progress of international development cooperation in the field of Decent Work with international, multilateral and regional organizations;
- supervising legal provisions on job placement and the temporary employment agencies;
- labour market policy and the promotion of employment, in collaboration with the relevant ministries;

- the policy with regard to the cooperative system, where necessary in an interdepartmental context;
- promoting micro, small and medium-sized entrepreneurship;
- the policy with regard to productivity and innovation and the professionalization of companies in relation to the workplace, the workers and the employers;
- the registration of the working population and care for work permit policy in collaboration with the relevant ministries;
- the ongoing training of the working population, all this in collaboration with the Ministry of Education, Science and Culture;
- the regulation and supervision of compliance with legal provisions on labour disputes;
- maintaining contacts and monitoring compliance with legal provisions regarding workers' and employers' organizations and promoting good industrial relations; and
- the wage policy as a sub-policy of the wage, profit and price policy.

The Ministry of Labour was restructured in 1994 and 2017 with the departments, units and functions as mentioned in the following paragraphs.

3.5 The Labour Inspectorate

The Labour Inspectorate in Suriname existed long before the idea of a Ministry of Labour, which came into existence in the late sixties. The first integrated legal regulation of the Labour Inspectorate (formerly the Labour Inspection Decree, now the Labour Inspection Act) came into effect in 1983, officially establishing the Labour Inspectorate. According to the Decree, Labour Inspection is directed by the Chief Labour Inspector, also known as the Inspector-General (I-G), under the general direction of the Minister of Labour, Employment Opportunity and Youth Affairs (the Minister of Labour). In order to organize the Labour Inspectorate services, the country is divided in three regions. The three regions are placed under two Heads (Region 2 comprising the post populous districts, Paramaribo and Wanica, is apart). Each region provides Social and Safety Inspection services. These heads and the labour inspectors are civil servants of the Labour Inspectorate and are permanent employees of the Government under the control of the I-G.

The Labour Inspection Act entrusts the Labour Inspectorate and the labour inspectors with the following tasks:

1. to supervise and enforce the observance of legal regulations regarding conditions of employment and the protection of employees performing duties;
2. to provide information and technical advice to workers and employers on the most effective means to observe legal regulations;
3. to report to the competent authorities, abuses and faults not covered by existing legislation; and
4. to ensure the observance of the relevant provisions of the Act and investigate reported accidents and diseases.

If any further duties are entrusted to labour inspectors, these shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers (article 3, paragraph 2).

The Social Inspection of each region has specific duties:

1. to supervise and enforce the observance of legal conditions and terms of employment;

2. to make inquiries and give advice regarding safe working hours, overtime work and night work; and

3. to supervise the observance of arbitration awards, and collective bargaining agreements.

The Safety Inspection is entrusted with the following important tasks:

1. to supervise and enforce the observance of the technical aspects of the labour law on safety; and

2. to advise the District-Commissioner of each district accordingly.

The Labour Inspectorate consists of three staff units/bureaus:

1. The Legal Bureau gives legal advice regarding labour legislation, prepares and drafts bills and revisions of labour laws, determines whether on-the-spot dismissals are legitimate and reports to the Inspector-General.

2. The Medical Bureau is entrusted with the task of protection of the health of workers and the prevention of industrial accidents and occupational diseases. This Bureau is also responsible for periodical medical examination of workers employed in situations likely to be harmful to their health, and prepares research for the Industrial Injuries Committee in cooperation with others involved in labour protection such as the Industrial Health Services (RBG).

3. The Research Bureau provides reports on studies relating to issues on non-routine safety inspections in enterprises.

4. The Bureau for Education and Training organizes on a regular basis, basic general and in-depth training for the Labour Inspectorate and determines the curriculum of the training programmes.

3.6 The Inspector-General

The Labour Inspectorate is headed by an Inspector-General (I-G) under the general direction of the Minister of Labour, Employment Opportunity and Youth Affairs. The Labour Inspection Act (the former amended Labour Inspection Decree of 1983) outlines the tasks of the Labour Inspectorate and labour inspectors. Prior to the enactment of the Labour Inspection Decree of 1983, labour laws explicitly stated the discretionary powers of labour inspectors and the I-G in the Labour Code and the Industrial Accidents Act. These powers include the right for the labour inspector to investigate breaches of the law, and the right to enter workplaces by day or night for inspection purposes.

The powers of the Inspector-General (I-G) are to:

- grant general or special permits or authorization for overtime work (Labour Code);
- require longer breaks for certain categories of work or grant exemption or permission for different regulations regarding the obligatory break (Labour Code);
- grant general or special permits for irregular working hours such as Sundays and night work (Labour Code);
- receive obligatory notification of working hours, shifts etc., or exempt from this obligation (Labour Code);
- receive information on dismissals on urgent grounds and to object or agree (Dismissal Act 2018);
- facilitate the transition of periodical benefits in lump sum in case of invalidity caused by industrial accidents (Industrial Accidents Act);
- register the obligatory notification of industrial accidents and diseases (Industrial Accidents Act);
- investigate notices of appeal against the determination of the existence of an accident or disease as prescribed, or of the degree of complete or partial invalidity (Industrial Accidents Act);
- be informed about the persons employed and their allowances and wages (Minimum Wage Act);
- issue a "written notification" to the employee and employer that the Head of Labour Inspection will conduct an investigation within 14 days of receipt of an employee's complaint that an employer pays under the minimum wage (Minimum Wage Act);
- conduct an investigation within 14 days of receipt of an employee's complaint that an employer does not comply with the minimum wage legislation (Minimum Wage Act);
- impose a last onder dwangsom [cease and desist order] on a certain breach of obligations, prohibitions and instruction in the minimum wage legislation. The last onder dwangsom is an order to make an end to a breach under threat of a fine if this is not done within certain time limits (Minimum Wage Act);
- impose an administrative fine on a certain breach of obligations, prohibitions and instruction in the minimum wage legislation (Minimum Wage Act);
- publish the breaches of the minimum Wage Act, the given instructions in this regard and the imposed last onder dwangsom and administrative fines (Minimum Wage Act); and
- receive and decide upon appeals (Minimum Wage Act).

The Head of the Labour Inspection also has specific tasks relating to the Occupational Safety and Health Act and the nine Safety Regulations (see chapters 8 and 9), the Freedom of Association Act, the Collective Bargaining Agreements Act, the Private Employment Agencies Act and the Labour Exchange Act 2017.

Other responsibilities/duties of the I-G, according to the Labour Inspection Act, are to:

- process the decision of the Minister of Labour in case of appeal against the prohibition of labour in some parts of the workplace or when certain parts are sealed;
- give instructions on information to be contained in the annual labour inspection report; and
- present an annual report to the Minister of Labour regarding inspection activities and publish these reports.

Trafficking in persons

Instructions on dealing with suspected cases of human trafficking and forced labour were given to relevant stakeholders, including the Labour Inspectorate, by Ministerial Order of the Minister of Justice and Police.[1] The basic principle is that when a (suspected) victim of trafficking is identified, the Trafficking in Persons Department (Police) must be notified as soon as possible. The main goal is efficiency and a smooth functioning of the system to tackle trafficking. The instruction is also (to the Labour Inspection) to notify the police when dwangmiddelen) [coercive means] are identified.[2] The reporting officials should themselves refrain from further investigation on other violations before notifying the police. There are certain time limits for notifications to the police.

The Ministry of Labour also participates in the Trafficking in Persons Working Group of the Ministry of Justice and Police along with other departments of Government.

3.7 Labour inspectors

Labour inspectors also have the following duties, obligations and powers in accordance with the Labour Inspection Act:

- to refrain from commercial participation in companies subject to their inspection;
- to observe secrecy, also in case of inspection resulting from complaints. The duty of confidentiality of the labour inspector has been expanded in 2017 and is the result of the implementation of ILO Convention No. 81.
- to enter without prior notice, workplaces at all times subject to inspection and to make official reports within 24 hours if it regards the entering of a residence;
- to do enquiries, investigations and surveys regarding the observance of labour legislation including interviewing of employers and employees;
- to request legally prescribed documents for inspection, demand certain written notices and take samples of tissues or substances in use for analysing purposes;

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1 Procedures and Guidelines for Notification Suspect Cases of Human Trafficking. Ministerial Order Minister of Justice and Police, 7 August 2014 Jno. 14/04373, SB 2014 No. 99.

2 Means of coercion refers to loss of physical and mental control by the victim due to threats or circumstances etc.

- order adaptation in company procedures to bring them in conformity with legal requirements;
- make recommendations to employers' and workers' representatives and to advocate observance of their bilateral agreements;
- to propose to the employer or their representative and the employee or their representative to put in writing what has been agreed upon orally by them (newly introduced in 2017 in article 11, paragraph 3);
- to order orally or in writing, closure of certain parts of the workplace or suspension of certain activities deemed to be a potential immediate hazard to the safety or health of employees and to revoke such orders. An employee who complies with such an order is therefore not guilty of an unauthorized refusal of work. Appeal against this order is possible to the Minister of Labour within seven working days;
- to take measures regarding the previous order including the sealing of machines, equipment, apparatus and spaces;
- to make footage intended to determine breaches of the safety, health and well-being of the employees in the performance of their work and when, as a consequence of these violations, an occupational accident has occurred or could have occurred (newly introduced provision in 2017 in article 11, paragraph 2);
- to request submission of digital material, including audio and video materials, which would be relevant to the assessment of a labour law issue (newly introduced in 2017 in article 11, paragraph 2).

3.8 Labour Market Department

The Labour Market Department is under the direct supervision of the Deputy Permanent Secretary, Labour Market, and has the following tasks:

- to coordinate, prepare and implement the labour market policy;
- to coordinate the relations concerning the labour policy with the relevant national and international institutions;
- to collect, process and publish labour statistics;
- to prepare policy regarding short-term interventions in the labour market;
- to train and retrain the active and inactive labour force in collaboration with relevant institutions in keeping with the labour market policy;
- to coordinate the preparation of the income policy, especially the policy on wages, in collaboration with relevant institutions; and
- to coordinate the supporting activities of the Ministry of Labour regarding the tripartite determination of the labour policy (employment policy and income policy).

The **Labour Market Department** consists of the following units:

1. Labour Statistics / Analysis;
2. Employment Agency (Public Employment Service and Work Permit Unit); and
3. Labour Market Development.

1. The general aim of the **Labour Market Statistics/Analysis Unit** is to systematically collect, process, disseminate and analyse labour statistics produced by units of the Ministry of Labour, including income, wages and macroeconomic indicators in order to facilitate an integrated labour market policy. It is entrusted with the tasks to:

- continuously follow trends and developments of wages and prices and macroeconomic indicators, especially those relevant to the employment policy and manpower planning, and periodically publish analysis on these matters;
- produce estimates and projections regarding the employment and income policy;
- analyse data in order to make recommendations on the income and employment policy on the short or longer term;
- adequately organize labour statistics;
- coordinate the management of information and data of the Ministry of Labour;
- collect, process and publish data produced by other research centres (for example General Bureau for Statistics); and
- build the capacity of the Ministry of Labour to process labour data efficiently.

The **Labour Market Statistics/Analysis Unit** also:

- produces and maintains a register of industry with the assistance of the Labour Inspectorate and other relevant institutions;
- publishes information regarding this register;
- does research on the supply and demand of labour;
- produces and publishes labour statistics;
- does random surveys and research periodically or as required, on specific issues concerning the labour market; and
- assists other entities of the Ministry of Labour involved with the setting up and maintenance of data files.

2. The general aim of the **Employment Agency Unit** is to continuously match the supply and demand of labour by offering its services to jobseekers and employers, and also executes the policy on foreign workers by issuing work-permits. The Employment Agency Unit consists of the Public Employment Service (PES) and the Work Permit Section.

The PES is assigned to:

- draw up vacancies and the qualifications necessary;
- register jobseekers, their categories, and the working population;
- mediate between jobseekers and employers;
- give information on choice of employment relating to vocational training skills;
- assist the application of the legislation on job placement;
- promote employment consistent with a balanced labour market policy;
- maintain relations with employers and other authorities concerning employment placement and good labour relations;
- support and motivate jobseekers; and
- give information on the situation of the labour market.

Through the PES, the Ministry aims to develop a strong and modern Vacancy Bank.

The PES formally has the task to provide vocational guidance to enable jobseekers and employers to identify suitable jobs and to conclude employment contracts. It gives information on the choice of employment concerning vocational training and provides guidance and counselling support to jobseekers. It also gives information on the situation of the labour market and assists jobseekers and students with their career planning.

The Work Permit section has the following duties:

- advises on the work permit policy;
- maintains relations with the Labour Inspectorate;
- issues work permits after inquiry and consultation with the relevant authorities;
- communicates with authorities on the grant and issue of work permits;
- gives information about legal and other regulations with regard to work permits; and
- follows the situation on the labour market in respect of the needs of migrant workers and the assessment of the problems of these workers on the labour market.

3. **The Labour Market Development Unit** has the objective of preparing policy measures focused on a sound matching of supply and demand of labour in the various sectors of the Surinamese labour market; and the task to prepare the labour market policy, including:

- employment policy;
- the policy on unemployment and assistance to small entrepreneurs and cooperatives;
- the policy on training and re-training of working and unemployed persons;

- the incomes policy, especially the wages policy in collaboration with other institutions;
- the policy on women, youth and persons with disabilities in the labour market by enabling decent work;
- elimination of under-employment and assist small enterprises and cooperatives;
- policy regarding women, young persons and persons with disabilities; and
- policy on assistance for small entrepreneurs and cooperatives.

Review

The review function of the employment policy is shared among several units in the Labour Market Department. The review consists of an assessment and analysis of the trends and development of wages and prices and the publishing of this, together with estimates and projections on employment and income policies. Research on the supply and demand of labour and production, and publication of labour statistics and processing of data produced by the Labour Statistics Department are also related to the review function. Another task within the review function is the conducting of random survey research on issues concerning the labour market (for example child labour, wages).

3.9 Legal and International Affairs Department

The Under Directorate of Legal and International Affairs Department is under direct supervision of the Deputy Permanent Secretary, Legal and International Affairs, who reports to the Permanent Secretary. This Department consists of the following four units:

1. Labour Legislation;
2. Collective Bargaining Agreements Registration;
3. International Affairs; and
4. Private Employment Agencies Department.

1. The duties under the **Labour Legislation Unit** are to:

- prepare or draft national and international labour regulations mainly regarding the revision of the labour laws;
- evaluate regularly the application of labour laws to trigger legislative changes;
- provide information and advice to workers and employers on the application of labour laws;
- give legal advice within the Ministry of Labour; and
- summarize arbitration awards of the National Labour Mediation Council.

2. **The Collective Bargaining Agreements Registration Unit:**

- registers collective bargaining agreements as required by the Collective Bargaining Agreements Act (GB 1962 No. 106);
- ensures that collective bargaining agreements are in keeping with the law; and
- provides legal assistance on the drafting of collective bargaining agreements.

3. **The International Affairs Unit** is entrusted with the responsibilities to:

- coordinate all contacts with international organizations including the ILO, the Organization of American States (OAS), Caribbean Community (CARICOM) and with States, concerning conferences, seminars and other events;
- coordinate the Ministry of Labour's official relations with embassies in Suriname as well as abroad, and with international organizations in Suriname;
- liaise with relevant department(s) of the Ministry of Foreign Affairs and other ministries;
- prepare requested reports to the ILO on labour issues in consultation with the union confederation Raad van Vakcentrales in Suriname (RAVAKSUR) and the employers' organizations De Vereniging Surinaams Bedrijfsleven (VSB) and Associatie van Surinaamse Fabrikanten (ASFA); and
- report on development of projects financed by other countries or international organizations.

4. **The Private Employment Agencies Department** has the primary tasks to:

- process and prepare the decisions regarding the application for temporary work agency permit;
- process and prepare the decisions regarding the application and labour exchange permit;
- have a proper registration of temporary work agencies and labour exchange bureaus;
- give advice and information as well as raise awareness on the Private Employment Agencies Act and the Labour Exchange Act;
- prepare the review of the effect and functioning of the Private Employment Agencies Act; and
- prepare the review of the effect and functioning of the Labour Exchange Act.

4

Labour and related institutions of the Ministry

4.1 Labour Advisory Board

The Ministry of Labour in Suriname has a long tradition of tripartite consultation on national labour policy and on labour administration services in keeping with ILO standards. Its Labour Advisory Board (AAC)[3] is a tripartite advisory body established to advise the Minister of Labour after consultation with the social partners on labour matters. The Board may provide advice as requested by the Minister or on its own initiative. The AAC specifically seeks:

- consensus on the views of the employers, workers and Government on labour matters; and
- advice on the preparation and adoption of labour legislation, the international labour standards, and the practice of good industrial relations.

The AAC, which is appointed for two years:

- has the power to establish sub-committees consisting of members or even non-members in order to prepare its recommendations/advice (existing committees within the AAC are the ILO and CARICOM committees);
- consists of four representatives each of Government, trade unions and employers along with a deputy member to each member, all of whom together with a Chairman, are appointed by the Minister;
- accommodates minority opinions in its report; and
- receives feedback from the Minister of Labour regarding any advice tendered.

3 Act of 24 December 1984, SB 1984 No. 106 as amended by SB 2016 No. 145.

While the AAC's advice is not binding, the Minister of Labour submits draft labour legislation to the competent legislative authorities, only after consultation with the AAC. When requested, the AAC expresses its views within 30 days, inclusive of any minority views. Government agencies, legal entities and civilians are obliged to give relevant information to the AAC if requested. They are also obliged to appear before the AAC in case of hearings.

4.2 The National Board for Occupational Health

The National Board for Occupational Health (NRB) is a multipartite board, consisting of members from the Ministry of Labour, Ministry of Public Health, representative organizations of employers and of workers, non-governmental organizations and medical professionals. The general objectives of the NRB are to further develop and improve occupational health. The NRB achieves these objectives by:

- advising and proposing draft guidelines and legislation to the Government, via the Minister of Labour, regarding occupational health;
- submitting to the Government, via the Minister of Labour, reports analyzing the occupational health status in Suriname and the functioning of relevant institutions;
- developing strategies on education, information and national and international cooperation;
- formulating a national programme on occupational health and evaluating its effectiveness and efficiency; and
- considering questions regarding the need for training and other support for national and international cooperation.

The NRB reports to the Minister of Labour who may give it general direction.

4.3 The National Labour Mediation Council

The principal administrative organ entrusted with the task to intervene in and settle collective labour disputes in Suriname is the National Labour Mediation Council (BR). When a labour dispute cannot be resolved by negotiations between an employer and a labour union representing workers, this dispute is submitted for mediation to the National Labour Mediation Council.

According to the Labour Mediation Act of 1946, the National Labour Mediation Council also serves as arbitrator at the request of the parties, and its awards are binding on the parties and concerned workers. The Council can also be requested to appoint an arbitration commission to settle a dispute; its judgments/awards are also binding to parties.

The BR conducts the mediation and arbitration function within the system of labour administration. The Council consists of seven members including a chairman, who is entrusted with certain discretionary powers under the Labour Mediation Act. Although not specifically mentioned in the Labour Mediation Act, the National Labour Mediation Council has a tripartite composition, given the role of the social partners in the establishment of the BR.

4.4 The Dismissal Board

The Dismissal Board (DB), which was officially established in 1986 under the Dismissal Permits Act of 1983, has the task to receive, process and to decide on the obligatory written application, on the prescribed form for a permit, to terminate a contract of employment (dismissal permit). The Dismissal Permits Act has already been replaced by the Dismissal Act of 2018; the DB keeps playing a key role in the employment system of Suriname. According to the Dismissal Act, an employer is not allowed to terminate the employment relationship without the dismissal permit. This prohibition does not apply in cases of termination by mutual consent; termination ipso jure; termination on urgent grounds (serious misconduct); and termination during probationary period.

The DB consists of five or seven members among which is a chairman, a vice chairman and a secretary, all of whom are appointed, and can be dismissed by the Minister of Labour. The Board is required to decide within 30 days after receipt of the applications, which are to be in conformity with the law. The dismissal permit is considered granted when the Board does not decide within the prescribed 30 days. The DB is legally obliged to hear both parties - the employer and the worker and the trade union concerned before deciding on the matter. Their lawyers or advisors can accompany them. All decisions, especially those rejecting the application, should be written with reasons for the rejections.

The Minister of Labour may give instructions to the DB officially by ministerial order. In 1994 The Minister instructed the DB regarding the following matters:

- collective dismissals and/or dismissals based on economic or organizational reasons; and
- dismissal of managers, board members and some other categories of workers.

In 2021, the Dismissal Decree was issued[4] containing rules regarding the composition and the functioning of the Dismissal Board.

The issue of dismissal

The parties involved in an employment relationship, the employer and the employee, are free to terminate the contract of employment with mutual consent at any time. The worker has the right to give notice to terminate an employment contract at any time. In such cases, the employer could compel the worker to give due notice, the length of which is dependent on the duration of the employment. When the prescribed notice period is not observed, the employer could bring the employee to the Court of Justice for damages.

On the other hand, a prohibition for dismissal is applicable when the employer wishes to terminate the employment contract: notification of dismissal for urgent reasons is required within four working days to the Labour Inspectorate, while in other cases, the employer has to apply to the tripartite DB for a dismissal permit.

After consideration of the notification of dismissal for urgent reasons, the I-G of the Labour Inspectorate could reject it within 14 working days. The dismissal is then considered invalid and non-existent. Rejection of the application for the dismissal permit by the DB means that the employment contract can only then be terminated by mutual consent or by the judge of a court of justice for serious reasons.

4 SB 2021 No. 58.

When notice of dismissal is given without a permit, complaints lodged at the Labour Inspectorate will ultimately lead to application for the permit and perhaps lawful dismissal. On the other hand, the worker could bring a claim before the Court of Justice for damages against the employer for non-observance of the prescribed notice period. In 2018, a semi-judicial appeal procedure was introduced against decisions of the Labour Inspectorate and the DB but failed to enter into force. The semi-judicial system will be replaced by an administrative appeal procedure.

The DB is a tripartite body and takes decisions on behalf of the Minister of Labour based on a legal mandate, in accordance with the law. The Labour Inspectorate advises and enforces observance of the laws in relation to dismissals (Dismissal Act). Termination of the employment relationship without notification to the Labour Inspectorate (Inspector-General) in the case of urgent reasons or without dismissal permits in other cases, constitutes an offence against the Dismissal Act. Penal sanctions (fine or imprisonment) are applicable in such cases.

The enforcement of the Dismissal Act by the Labour Inspectorate is done through prosecution by the Public Prosecutions Department and is finalized by a judgment of the Court of Justice.

4.5 The Foundation for Productive Work Units

The Foundation for Productive Work Units (SPWE), which was established in 1974, is under the jurisdiction of the Minister of Labour. The SPWE has the following objectives:

- to promote full and productive employment to jobseekers;
- to provide for technical and administrative assistance to small enterprises and cooperatives by consultancy services;
- to do research on problems and possibilities for small enterprises and cooperatives and publish the reports;
- to make available facilities to strengthen small enterprises and cooperatives; and
- to organize short and intensive training activities for jobseekers, small enterprises and cooperatives to enhance management skills and productivity and disseminate information.

The foundation endeavours to achieve these objectives by means of assistance to the preparation and establishment of small enterprises and cooperatives. The SPWE also assists existing small enterprises and cooperatives with legal formalities, training possibilities and technical and administrative services. These legal formalities include applications for permits, credit facilities and tax matters.

A director, appointed by the Minister of Labour, manages the activities of the foundation. He/she is assisted by at least two deputy directors entrusted with tasks relating to:

- financial management and supporting services;
- counseling of the target groups; and
- research and development.

A Supervisory Board comprising one representative each of the Ministry of Labour, the Ministry of Trade and Industry, Planning Bureau Foundation, trade unions and employers, appointed for a term

of three years, considers the efficiency of activities and the compliance with the policy guidelines of the Ministry of Labour. The Board also has an advisory role to the Minister of Labour and the director.

4.6 The Foundation for Labour Mobilization and Development

The Ministry of Labour established The Foundation for Labour Mobilization and Development (SAO), in association with the ILO, in 1981. The general objective of the SAO is training of the employed and the unemployed and promoting skills enhancement and development of craftworkers.

The SAO attempts to achieve this objective by:

- the coordination and promotion of training and re-training activities for the employed and the unemployed in the context of the short-term labour market policy;
- the placement of the target group at relevant institutions;
- providing special training programmes for specific target groups such as women and young persons;
- acting as an instrument for the elimination of unemployment;
- accessing the training of the adult vocational training centres; and
- cooperating with governmental and non-governmental institutions in promoting its goals.

The Board is the highest organ of the SAO, consisting of five or seven members appointed by the Minister of Labour after receiving nominations from the participating organizations. It is appointed for two years, led by the Chair of the Under Director of Labour Market. It includes the Under Director for Vocational Secondary Education of the Ministry of Education and Public Development, one representative of each of the labour unions, the employers and one representative of the union of the SAO workers. The Under Director Vocational Secondary Education is the secretary.

The Board determines the policy of the SAO in conformity with the guidelines of the Minister of Labour and supervises the execution of the policy by management which comprises of a General Manager and two assistant managers. These assistant managers are entrusted with tasks relating to vocational training and administrative services.

4.7. Suriname Hospitality and Tourism Training Centre

The bylaws of the Suriname Hospitality and Tourism Training Centre Foundation (SHTTC) were approved in 2008 by the President of the Republic of Suriname. The SHTTC is a multipartite foundation established by the Ministry of Labour, the Ministry of Tourism and the VSB (bylaws SHTTC, article 4). This foundation has the objective to train workers and jobseekers for the tourism and hospitality branch in Suriname (bylaws SHTTC, article 5). The supervisory board of SHTTC consists of five to nine members, which are appointed for three years by the President of Suriname after being nominated by the respective organizations (bylaws SHTTC, article 8, paragraphs 1, 4 and 5).

The positions of chairperson and vice chairperson are reserved for the representatives of the Ministry of Labour and the Ministry of Transport, Communication and Tourism on a rotation basis (bylaws SHTTC, article 9, paragraph 1). The Board is accountable to the Ministers of Labour and of Tourism (bylaws SHTTC, article 9, paragraph 5). Membership to the Board can be terminated on the request

of the represented organization (bylaws SHTTC, article 10, § b). The Board takes decisions by simple majority of votes in meetings where at least half of the sitting members are present. The chairperson has the power to decide when the votes are divided on the same issue on two consecutive meetings (bylaws SHTTC, article 12, paragraphs 1 and 3). The Board consists of representatives of the Ministries of Labour, TCT and Education, two representatives of the VSB and one representative each from SAO, STS (Tourism Foundation Suriname), Nijverheidsonderwijs [basic hospitality education] and IMEAO (Institute for administrative and economic education on secondary level).

A director is responsible for the management of the foundation and is appointed, suspended and dismissed by the President on the recommendation of the Ministries of Labour and TCT (bylaws SHTTC, article 13 and article 14, paragraph 1).

4.8 Suriname Labour College

The Suriname Labour College (SIVIS) was established in 1967 and is the primary institution for workers and the labour union. The general objectives of the SIVIS are to enhance their knowledge and to raise awareness of workers and unions on the national, regional and international socio-economic role, organization and tasks of labour unions. To achieve these objectives the SIVIS:

- organizes written and oral courses for specific target groups;
- assists unions with the organization of courses or conferences; and
- serves as a centre for study and conference purposes.

The SIVIS contains, according to its constitution, the following organs: the Board; the Executive Board; a School Board Management; and a Planning Agency.

The Board, consisting of five or seven members, is the highest authority within the SIVIS system and has a tripartite structure. The members of the Board are selected from representatives of the labour unions cooperating and participating in the SIVIS. The employers' organizations and the Minister of Labour each have at least one representative. The chairman of the Board is a representative of the labour union. The chairperson, treasurer and secretary constitute the members of the Executive Board. The main task of the Executive Board is to supervise the activities of the School Board Management. The Board appoints a School Board Manager who is in charge of the daily training activities of the SIVIS. He/she is directly accountable to the Executive Board.

The Planning Agency consists of four appointed members representing the labour unions participating in SIVIS, one from the employers' organizations and the other nominated by the Ministry of Labour. The Planning Agency is an advisory body to the Board and it advises on the content of the different courses of the SIVIS. The Planning Agency is empowered to give unsolicited advice and is solely accountable to the Board.

4.9 The Board for Cooperatives

The Board for Cooperatives (RACO) was established by the Board for Cooperatives State Decree in 1994 and is based on the Cooperatives Act of 1944. The responsibilities of RACO are to:

- advise the Minister of Labour on matters concerning cooperatives, in general;

- advise the Minister on cooperative policy and legislation and the implementation of this policy; and
- promote the development of new and existing cooperatives.

The RACO is a bipartite institution under the aegis of the Minister of Labour who, after recommendations from the relevant organizations, appoints one member each from the Ministries of Agriculture, Cattle Breeding and Fisheries; Trade and Industry; Natural Resources; Labour; and Transport, Communication and Tourism. The other five members of the RACO are nominated by cooperatives or federations of cooperatives. These five nominees are determined by way of elections in the manner prescribed by the Board for Cooperatives State Decree of 1994. For every member selected, a deputy is also appointed.

The RACO is appointed for three years. Along with the ten members, the Minister of Labour appoints a chairman and a secretary who are not allowed to vote on matters. The RACO meets at least once a month or whenever the chairman or at least three members deem it necessary. The Minister of Labour may only propose draft legislation on cooperatives after consultation with the RACO.

4.10 Centre for Innovation and Productivity

The Centre for Innovation and Productivity (CIP) was established by the Centre for Innovation and Productivity Act of 2019.[5] The CIP falls within the system of labour administration and is responsible for the following tasks:

a. designing and developing methodologies for productivity measurement and productivity improvement in the public and private sectors;

b. providing technical advice and support to employers regarding productivity-related compensation models and schemes;

c. holding consultations with stakeholders regarding the tasks of the CIP and promoting a culture of productivity in Suriname, including by promoting appropriate regulations and policies;

d. promoting and monitoring all aspects of productivity growth;

e. assisting in the development of improved methods of work organization aimed at improving productivity levels;

f. designing and advising on productivity education programmes aimed in part at promoting cooperation between employers and employees;

g. disseminating information, for instance, about best practices with the aim of promoting public awareness about the production of high-quality goods and services and other areas of interest;

h. measuring the overall productivity (total factor productivity) and its sub-aspects such as labour productivity and capital productivity and determining productivity gaps in the context of productivity improvement;

5 Act of 8 January 2019 SB 2019 No. 7.

i. establishing links with other national and regional productivity organizations and mobilizing funds.

The CIP has a Supervisory Board consisting of a minimum of seven and a maximum of nine members and is responsible for supervising the management by the Directors. The Board consists of representatives of the labour, economic affairs, agriculture, livestock and fisheries, natural resources and energy and education ministries and representatives from the employers and the workers. The members of the Board are appointed by the Minister of Labour after the approval of the Council of Ministers, for a maximum period of three years.

The CIP is managed by a director assisted by at least four managers. The following departments are appointed under the director:

1. Public Awareness, Labour Relations and Education;
2. Research and Planning;
3. Human Resources Development and Training; and
4. Technical Assistance and Organizational Transformation.

The director and the managers are appointed, suspended and dismissed by the Minister in charge of labour matters on the recommendation of the Supervisory Board after advice has been obtained from the Council of Ministers.

4.11 Parental Benefits Fund

The Parental Benefits Fund (PBF) was established by the Maternity Protection Act of 2019.[6] Rules regarding the functioning of the Fund and the Board are contained in the Maternity Protection Decree.[7]The task of the Fund is to ensure continued payment of wages in connection with the granting of maternity and paternity leave to employees.

The PBF is managed by a board consisting of a minimum of three and a maximum of five members. Of these, two are representatives of the Ministry of Labour, one member representing the Ministry of Finance, one member representing employers and one member from the workers' organizations. The board is appointed by the Minister for a period of five years.

The board will set up a bureau that is charged with:

a. handling and deciding on applications by employers for maternity and paternity benefits;

b. supervising and monitoring the implementation of the entire application and payment process;

c. collecting and analyzing data related to the implementation of the Maternity Protection Act; and

d. all administrative work in connection with the disbursements of the Fund.

6 Act of 10 June 2019 (SB 2019 No. 64.

7 SB 2020 No. 41.

4.12 National Minimum Wage Board

The National Wage Council is established by the Minimum Wage Act and further regulated by the State Decree National Minimum Wage Council.[8] The general aim of the Council is to advise the Minister of Labour every two years on the determination of the minimum wage in Suriname.

The Council is composed of seven members. The following basic composition is determined in the State Decree:

a. two representatives of the Ministry responsible for labour matters;

b. two representatives of the employers' organizations;

c. two representatives of the workers' organizations; and

d. a representative of the Stichting Planbureau Suriname [Planning Bureau Foundation].

The Council's chair is nominated by the Minister of Labour. A secretary is appointed and dismissed by the Minister, their role is non-verbal and they bear no voting rights. The Council deliberates and decides in private where decisions are made by a majority vote. The chairman has the right to vote with regard to the decisions of the Board.

The tasks of the Council include:

a. advising annually on the minimum wage to employees and to forward this information to the Minister by the end of November at the latest;

b. consulting the Central Bank of Suriname, the General Bureau of Statistics, the Stichting Planbureau Suriname and the Minister charged with social affairs before issuing an advice on minimum wages;

c. determining, evaluating and adjusting the calculation method of the minimum wage;

d. advising on the composition of the Basic Package or any other indicator that will aid in calculating the minimum wage;

e. advising on the size of the Engel Coefficient or any other factor used in the calculation method of the minimum wage;

f. conducting wage surveys throughout the territory of Suriname in collaboration with the Labour Market Department of the Ministry of Labour;

g. evaluating the functioning of the Minimum Wage Act and the social impact of the minimum wage and keeping track of the number of employees who earn the minimum wage, the working poor (according to the ILO definition) and the workers in rural areas, the low-skilled workers and the workers from the Indigenous and Tribal Peoples;

h. advising the Minister on the relationship between productivity and the calculation method of the minimum wage;

8 State Decree of 11 November 2020 (SB 2020 No. 200).

i. advising the Minister on the relationship between economic indicators and the calculation method of the minimum wage;

j. making proposals for legislative changes related to the minimum wage mechanism; and

k. the annual publication of data and analyses on the operation of the Minimum Wage Act and the wage situation in Suriname divided by region, sector and profession and on the basis of age, gender and status of the employee.

4.13 National Commission on the Elimination of Child Labour

The National Commission on the Elimination of Child Labour (NCUK) was established in 2008 by the National Commission on the Elimination of Child Labour State Decree[9] (NCCLS) for an indefinite period (article 2, paragraph 1) in order to implement the ratified ILO Convention No. 182 on the Worst Forms of Child Labour. The general aim of the NCUK is to prevent and to eliminate child labour with a broad scope in Suriname (NCCLS, article 2, paragraph 2). The Commission has the following tasks:

a. making proposals for formulating policies on the elimination of child labour;

b. preparing a national action plan for the elimination of child labour;

c. coordinating and monitoring the implementation of the national action plan;

d. initiating specific development programmes for children of Indigenous and Tribal Peoples;

e. conducting research into the socio-economic situation of children who perform child labour;

f. making proposals and giving advice to the Minister and relevant parties regarding the elimination of child labour;

g. advising the Minister on the socio-economic reintegration of children involved in the labour process;

h. monitoring compliance with international commitments arising from the ratification of international standards related to child labour; and

i. making proposals for legislative changes related to child labour.

The NCUK consists of 11 members and has a multipartite structure, representing workers, employers, five ministries, the President of the Republic of Suriname, NGO's and the Anton de Kom University of Suriname (NCCLS, article 4). The participating Ministries are:

1. Labour;
2. Justice and Police;
3. Social Affairs and Public Housing;
4. Education; and
5. Regional Development.

9 State Decree of 2 September 2008 (SB 2008 No. 115) as amended by (SB 2012 No. 152).

The members and the chairperson of the NCUK are nominated by the organizations or ministries they represent and are appointed for three years by the President of the Republic of Suriname after consultation with the Board of Ministers. The chairperson is nominated by the Minister of Labour. The vice chairperson is assigned by the members themselves (NCCLS, article 5). A non-member secretary is appointed by the President after being nominated by the Minister and after consulting with the Board of Ministers. The chairperson and members are dismissed by the President, after consultation of the Board of Ministers. Dismissal can also be at their own request or that of the nominating ministries or organizations (NCCLS, article 7). Decisions are taken by simple majority of votes in meetings where at least six members are represented (Standing Orders NCUK).

4.14 Commission on the Free Movement of CARICOM Skilled Nationals

According to Article 7 of the Free Movement of CARICOM Skilled Nationals Act, an advisory commission should be established in order to advise the Minister of Labour on matters related to free movement of persons. The Commission on Free Movement of CARICOM Skilled Nationals (CFMP) was established by State Decree in 2006[10], consisting of representatives of seven ministries. They advise the Minister of Labour on free movement issues and deal with applications regarding the issue or verification of certificates and advises the Minister in this regard.

The Commission has the following specific tasks:

a. coordinating the preparation and establishment of CFMP statutory regulations, procedures and guidelines and advising the Minister of Labour accordingly;

b. advising other ministries on matters relating to the CFMP;

c. processing applications for CARICOM Skilled Certificates;

d. advising the Minister with regard to the status of applicants;

e. handling complaints from citizens of Member States of the Caribbean Community within the framework of the CFMP, in cases involving the Republic of Suriname in any way;

f. promoting good cooperation between the various ministries, agencies, officials and persons involved in the implementation of the CFMP;

g. stimulating and continuing the awareness process within the community regarding the CFMP; and

h. performing duties ordered to the Commission pursuant to the State Decree of 2006.

The Commission furthermore coordinates the preparation and adoption of legislation, procedures and guidelines on the free movement of CARICOM skilled nationals and advises other ministries on these matters. The Commission also deals with complaints of CARICOM skilled nationals related to free movement.

The CFMP consists of representatives of the following seven ministries:

10 State Decree of 7 February 2006 (SB 2006 No. 22 as amended by SB 2008 No. 104).

1. Labour;
2. Trade and Industry;
3. Education and Public Development;
4. Justice and Police;
5. Defence;
6. Foreign Affairs; and
7. Internal Affairs.

5

ILO Conventions as national labour policy

5.1 The ratification procedure

The Netherlands has been a member of the ILO since 1919. In accordance with the Constitution of the ILO, the Netherlands had to specify or declare whether ratified Conventions would be applied to Suriname, as prior to 1975, the Netherlands was responsible for the international relations of Suriname. In this regard, the Government of Suriname gained experience on ILO procedures and related matters even in the colonial period.

After independence in 1975, Suriname became a member of the ILO in 1976. Within the Government, the Ministry of Labour is by its terms of reference and by law, the exclusive authority to deal with international labour affairs. The initiating, preparation and finalizing of the ratification of ILO Conventions is the responsibility of the Ministry of Labour because of its technical and procedural expertise and the communication and relations established during decades of close interaction with the ILO system. However, Article 103 of the Constitution states the following:

> "Agreements with other States and international institutions are concluded by or with authorization of the President and if required also ratified by him. These agreements should be submitted to the National Assembly without delay. They are not ratified and do not enter into force without approval by the National Assembly".

The national process of ratification is as follows:

- the Minister of Labour submits newly-adopted Conventions or re-examination of unratified Conventions, and proposes the ratification of a Convention to the partners in the tripartite Labour Advisory Board (AAC);

- after approval by the AAC, the Minister of Labour submits the proposal to the Council of Ministers;
- when approved by the Council of Ministers, the relevant documents are submitted to the Ministry of Foreign Affairs by the Minister of Labour;
- the Ministry of Foreign Affairs prepares documents for the President who may seek advice from the State Counsel;
- after obtaining advice from the State Counsel, the Ministry of Labour prepares the documents for the President to submit them to the National Assembly;
- the Ministry of Foreign Affairs (currently: Foreign Affairs, International Business and International Cooperation) is notified of the approval by the National Assembly;
- the Ministry of Foreign Affairs then prepares the instrument of ratification; and
- the instrument of ratification is sent to the Director-General of the International Labour Office.

Suriname ratified most recently the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29) on 3 June 2019, the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) on 4 January 2017 and the Minimum Age Convention, 1973 (No. 138) on 15 January 2018, thereby denouncing the Minimum Age (Fishermen) Convention, 1959 (No. 112). As of November 2021, Suriname has ratified 33 Conventions and one Protocol of which 30 Conventions and one Protocol are in force; two Conventions have been denounced and one abrogated.

The Conventions and Protocol in force are summarized hereunder many of which are based on the ILO publication "Summaries of International Labour Standards" of 1990 and the "Guide to International Labour Standards" of 2008 of International Training Centre of the International Labour Organization.

5.2 Basic human rights

Freedom of association

Right of Association (Agriculture) Convention, 1921 - No. 11; (Ratified:15 June 1976)

The aim of the Convention is to promote and protect the right of association of agricultural workers.

Ratifying States should guarantee that the same rights of association as for industrial workers apply to those engaged in agriculture. The State should repeal any statutory or other provisions restricting such rights for those engaged in agriculture.

Freedom of Association and Protection of the Right to Organize Convention, 1948 - No. 87; (Ratified: 15 June 1976)

The Convention aims to promote the right of workers and employers, without any distinction to organize for furthering and defending their interests.

Workers and employers, without any distinction whatsoever (except for armed forces and police to be decided by law) have the right to establish and to join organizations of their own choosing with a view to furthering and defending their rights.

These organizations:

- freely draw up their charters and rules, elect representatives and organize their administration and activities;
- shall not be liable to be dissolved or suspended by administrative authority;
- freely establish and join federations or confederations having the same rights and guarantees;
- freely affiliates with international organizations; and
- shall not be subject to restrictive conditions for the acquisition of legal personality.

Right to Organize and Collective Bargaining Convention, 1949 - No.98; (Ratified: 5 June 1996)

Workers shall enjoy adequate protection against acts of anti-union discrimination including refusal to employ, wrongful dismissal or any other prejudice. Workers' and employers' organizations shall enjoy protection against acts of interference by each other including domination, financing and control of unions by employers or their organizations. In order to promote their right to organize, machinery appropriate to national conditions, should be established. Appropriate measures shall be taken to encourage and promote the development and utilization of voluntary collective bargaining on terms and conditions of employment. The Convention relates to the following objects: protection of workers exercising the right to organize; non-interference between workers' and employers' organizations; and promotion of voluntary bargaining.

Workers' Representatives Convention, 1971- No. 135; (Ratified: 15 June 1976)

The aim of the standard is the protection of workers' representatives and facilities to be afforded to them. Workers' representatives shall be protected against any prejudicial acts including dismissal regarding their activities, union membership or participation in union activities in conformity with the law or agreements. The workers' representatives shall be afforded facilities to enable them to carry out their functions promptly and efficiently, without impairing the efficient operation of the undertaking.

Labour relations

Labour Relations (Public Service) Convention, 1978 - No. 151; (Ratified: 5 June 1996)

The standard aims to protect public employees exercising the right to organize. Provisions relate to non-interference of public authorities; the determination of employment terms and conditions by negotiation and guarantees for disputes settlement.

According to the Convention, public employees shall:

- enjoy adequate protection against acts of anti-union discrimination; and
- have the same civil and political rights as other workers only subject to obligations arising out of their status.

The organizations of these employees:

- enjoy adequate protection against acts of interference by a public authority in their establishment, functioning and administration; and

- enjoy complete independence from public authorities.

Representatives of the organizations of public employees shall be afforded facilities in order to enable them to carry out their functions promptly and efficiently. The negotiation or other participatory methods to determine the terms and conditions of employment for public employees shall be encouraged and promoted. The settlement of disputes shall be sought through negotiation between the parties or through independent and impartial machinery.

Forced labour

Forced Labour Convention, 1930 - No. 29; (Ratified: 15 June 1976)

The Convention aims to suppress forced labour.

Ratifying states should progressively suppress the use of forced and compulsory labour in all its forms. The Convention, under certain conditions and guarantees, does not apply to five categories of activities:

1. compulsory military service;
2. certain civil obligations;
3. prison labour;
4. work exacted in case of emergency; and
5. minor communal services.

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence.

Protocol of 2014 to the Forced Labour Convention, 1930; (Ratified 03 June 2019)

The Protocol aims for the prevention, protection and remedy in giving effect to the obligation to suppress forced labour. The Protocol supplements the Forced Labour Convention, 1930 (No. 29).

The Protocol emphasizes educating and informing those considered particularly vulnerable, employers and the wider public and extending coverage and enforcement of relevant laws to all workers and sectors. Labour inspection and other services responsible for the implementation of these laws should be strengthened. Measures should be taken to offer protection from abuses arising during the recruitment process, to support due diligence by the public and private sectors and address root causes and factors that heighten the risks of forced labour. Effective measures should be taken for the identification, release, protection, recovery and rehabilitation of victims. Victims are protected from punishment for unlawful activities that they were compelled to commit. Victims' access to appropriate and effective remedies, such as compensation, irrespective of their presence or legal status in the territory should be guaranteed. Measures taken under the Protocol must include specific action against trafficking in persons for forced labour. The Protocol requires ratifying States to take effective measures to prevent and eliminate forced labour, to provide victims with protection and access to appropriate and effective remedies, such as compensation, and to sanction perpetrators.

Ratifying States should develop a national policy and plan of action. Cooperation between and among States to prevent and eliminate forced labour is essential.

Abolition of Forced Labour Convention, 1957 – No. 105; (Ratified: 15 June 1976)

The purpose of the Convention is prohibition of the recourse to forced or compulsory labour in any form for certain purposes.

Ratifying States take measures to suppress any form of forced or compulsory labour:

1. as a means of political coercion or education or as a punishment for holding or expressing political views opposed to the established political, social or economic system;
2. as a method of mobilizing and using labour for purposes of economic development;
3. as a means of labour discipline;
4. as a punishment for having participated in strikes; and
5. as a means of racial, social, national or religious discrimination.

Child labour

Minimum Age Convention, 1973 - No. 138; (Ratified: 15 January 2018)

The aim of the Convention is the effective abolition of child labour.

Ratifying States undertake to pursue a national policy designed to:

- ensure the effective abolition of child labour; and
- raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

The general minimum age for admission to employment or work has to be specified in a declaration appended to the ratification. Suriname has specified and declared 16 years the minimum age applicable.

The minimum age may subsequently be raised by further declarations. The competent authority may allow exceptions in individual cases to the general minimum age for such purposes as participation in artistic performances. The permits granted have to limit the number of hours and conditions in which such work is allowed. The employment of young persons from the age of 16 years may be authorized, after consultation with organizations of employers and workers, on certain conditions.

Hazardous work is any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons and these types of work are to be determined at the national level. Light work is work which is not likely to be harmful to the health or development of the young persons concerned and is not such as to prejudice their attendance at school or their participation in vocational orientation or training programmes. Ratifying States have to determine the activities which are so authorized and prescribe the hours of work and conditions.

The Convention applies to any type of employment or work. States, whose economy and administrative facilities are insufficiently developed, may initially limit the scope of application of the Convention under specified conditions.

Ratifying States may exclude from the application of the Convention limited categories of employment or work in respect of which special and substantial problems of application arise. The excluded categories have to be listed in the first report on the application of the Convention. Furthermore, this exclusion may not cover hazardous work.

The Convention does not apply to:

- work done in schools for general, vocational or technical education or in other training institutions; and
- work done by persons at least 14 years of age in enterprises under specified requirements.

All necessary measures, including the provision of appropriate penalties, have to be taken to ensure the effective enforcement of the Convention. National laws or regulations or the competent authority must:

- define the persons responsible for compliance with the provisions giving effect to the Convention; and
- prescribe the registers or other documents which have to be kept and made available by the employer.

Worst Forms of Child Labour Convention, 1999 - No.182; (Ratified: 12 April 2006)

The Convention aims to effectively eliminate the worst forms of child labour by immediate and comprehensive action.

Ratifying States should take immediate and effective measures to secure the prohibition and the elimination of the worst forms of child labour. Persons under the age of 18 are categorized as children. The Convention mentions four specific categories of the worst forms of child labour, included is work which is likely to harm the health, safety or morals of children.

The other categories are related to slavery or similar practices, prostitution, pornography and drugs. The Convention calls for consultation with employers' and workers' organizations, particularly regarding monitoring mechanisms and the design and implementation of programmes of action. The Convention mentions some effective and time-bound measures and promotes international cooperation.

Equality of treatment and discrimination

Equal Remuneration Convention, 1951 - No. 100; (Ratified: 4 January 2017)

The Convention aims to enable equal remuneration for work of equal value for men and women.

Ratifying States have to ensure, in keeping with the methods in operation for determining rates of remuneration, the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

For the purpose of the Convention, the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on gender.

Remuneration is the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the workers' employment.

One useful practice is the objective appraisal of jobs on the basis of the work to be performed. Where different rates correspond to differences in the work to be performed, an objective appraisal without gender bias will support the principle of equal remuneration. Governments must cooperate with employers' and workers' organizations for the purpose of giving effect to the provisions of the Convention.

Discrimination (Employment and Occupation) Convention, 1958 - No. 111; (Ratified: 4 January 2017)

The Convention aims to assign governments to promote equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination pertaining to employment and occupation.

Ratifying States undertake to declare and pursue a national policy to promote equal opportunity and treatment and eliminate discrimination in respect of:

- access to vocational training;
- access to employment and to particular occupations; and
- terms and conditions of employment.

Discrimination is defined as any distinction, exclusion or preference made on the basis of race, colour, gender, religion, political opinion, national extraction or social origin (or any other reason specified by the State concerned), which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

In particular, ratifying States have to:

- seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of its policy;
- repeal any statutory or administrative provisions which are inconsistent with the policy;
- enact legislation and promote educational programmes to secure its acceptance;
- ensure observance of the policy in employment, vocational guidance, vocational training and placement services under the direction of a national authority; and
- indicate in its annual reports the application of the Convention and the actions taken in pursuance of this policy.

The Convention establishes the following three types of measures which are not deemed to be discrimination:

1. measures designed to meet the particular requirements for specific work;
2. measures which might be justified to protect the security of the State; and
3. measures of protection or assistance.

5.3 Employment

Employment policy

Employment Policy Convention, 1964 - No. 122; (Ratified: 15 June 1976)

Convention No. 122 promotes full, productive and freely-chosen employment.

Member States should declare and pursue an active employment policy, focused on full employment, economic growth and development, living standards, manpower requirements, unemployment and underemployment. The policy shall promote full, productive and freely-chosen employment. Employment policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives.

Measures to be adopted for attaining the specified objectives shall be decided and kept under review within the framework of a co-coordinated economic and social policy. Consultations should include representatives of persons affected by the measures to be taken, particularly representatives of employers and workers.

Employment services and agencies

Employment Service Convention, 1948 - No. 88; (Ratified: 15 June 1976)

The aim of the standard is a free public employment service. Ratifying States shall create and maintain a free public employment service. This will ensure the best possible organization of the labour market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources. Convention No. 88 describes in detail the organization of the employment service and its cooperation with other bodies in order to provide efficient recruitment and placement.

Employers' and workers' representatives should cooperate and participate in the operation of the employment service. Provisions of Convention No. 88 define the functions of the employment service and the measures to be taken by the service to accommodate certain categories of workers. The status and conditions of service of employment of service staff are also dealt with in Convention No. 88.

Private Employment Agencies Convention, 1997 - No.181; (Ratified: 12 April 2006)

The aim of Convention No. 181 is to regulate private employment agencies. This takes into account their role in well-functioning labour markets, the protection of workers and basic principles for an effective industrial relations system.

Convention No. 181 does not apply to the recruitment and placement of seafarers. It promotes the operation of private employment agencies with possibilities for exclusion of categories of workers or branches of economic activity.

Ratifying States take measures to ensure that the workers recruited by private employment agencies enjoy the right to freedom of association, to bargain collectively and to equality of treatment. Furthermore, necessary measures should be taken to ensure adequate protection in relation to:

- minimum wages;
- working time and other working conditions;
- social security benefits;
- training;
- occupational safety and health;
- compensation; and
- maternity and parental protection.

Other provisions relate to privacy, charging of fees, migrant workers, child labour, investigation of complaints and cooperation with public employment service.

5.4 Labour administration

Labour Administration Convention, 1978 - No. 150; (Ratified: 29 September 1981)

The aim of the standard is the establishment of an effective labour administration with the participation of employers and workers and their organizations. The member States shall organize an effective system of labour administration, the functions and responsibilities of which are properly coordinated. This system shall be based on consultation, cooperation and negotiation with employers' and workers' organizations. Convention No. 150 extensively sets out the various functions of labour administration.

The staff of the labour administration system should be composed of persons who are suitably qualified and independent of improper external influences. They shall have the status, the material means and the financial resources necessary for the effective performance of their duties. Unemployed persons, under the law, should be brought within the mainstream of the labour administration services.

Labour inspection

Labour Inspection Convention, 1947 - No. 81; (Ratified: 15 June 1976)

The aim of the standard is to secure the enforcement of legal provisions for the protection of workers by inspections of industrial and commercial workplaces.

Ratifying States establish a system of labour inspection to enable the enforcement of legal provisions on conditions of work and the protection of workers. Convention No. 81 contains provisions related to the organization and functioning of labour inspection, the responsibilities of a central authority, the cooperation of labour inspection with workers, employers and their organizations, recruitment of qualified and gender balanced staff in sufficient numbers with appropriate power and material means.

The inspection services engage in regular inspection of workplaces, publication of reports and annual statistics on the work of inspection services.

The functions of labour inspection are:

- to secure the enforcement of law;
- to advise employers and workers; and
- to provide information to the competent authority.

The powers of the labour inspection stated in the Convention are:

- the power to freely enter workplaces liable for inspection;
- to carry out inquiries and interview persons;
- to examine documents and take samples;
- to order the remedy of defects and to give warnings; and
- to advise or to institute or recommend proceedings.

Labour inspectors are obligated to have neither direct nor indirect interest in undertakings under their supervision. In addition, commercial secrets or sources of complaints must be treated with full confidentiality.

Tripartism

Tripartite consultation (International Labour Standards) Convention, 1976 - No. 144; (Ratified: 16 November 1979)

Convention No. 144 promotes the effective consultation between government, employers and workers on international labour standards.

Convention No. 144 promotes effective consultation among government and the social partners on:

- government replies to questionnaires concerning the agenda of the International Labour Conference and their comments on proposed texts to be discussed in the International Labour Conference;
- proposals to the competent authority or authorities in connection with the submission of Conventions and Recommendations (article 19, ILO Constitution);
- regular re-examination of unratified Conventions and Recommendations to promote their ratification and implementation;
- questions arising out of reports on ratified Conventions (article 22, Constitution ILO); and
- proposals for the denunciation of ratified Conventions.

The government and the social partners together determine the nature and form of such procedures adapted to national practice. The representatives participating in those procedures should be chosen freely and shall be represented on equal footing. Consultations shall take place periodically but at least once a year and annual reports on working procedures prepared and issued.

5.5 Labour relations

Collective Bargaining Convention, 1981 - No. 154; (Ratified: 5 June1996)

The aim of the standard is to promote free and voluntary collective bargaining. Ratifying States shall take measures to promote collective bargaining in all branches of economic activity. This includes the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machineries or institutions with the voluntary participation of the parties to the collective bargaining process. Convention No. 154 provides for prior consultations of the organization of employers and workers and specifies that the promotional measures taken shall not hamper the freedom of collective bargaining.

5.6 Conditions of work

Wages

Labour Clauses (Public Contracts) Convention, 1949 - No. 94; Ratified: 15 June 1976)

Convention No. 94 contains some guarantees in the execution of public contracts.

According to Convention No. 94, public contracts shall include clauses guaranteeing wages, hours of work and other conditions of labour which are not less favorable than conditions established for comparable work by national laws or regulations, collective agreements or arbitration awards, on the general level observed in the trade or industry concerned. Convention No. 94 promotes measures to maintain fair and reasonable conditions of health, safety and welfare to the workers.

The provisions of Convention No. 94 relate to:

- publication of texts implementing Convention No. 94;
- a system of inspection;
- sanctions (such as the withholding by public authorities of contracts); and
- measures enabling the workers concerned to obtain the wages to which they are entitled.

Convention No. 94 provides for temporary suspension of the operation of its provisions in cases of force majeure or in the event of emergency, endangering national welfare or safety.

The Convention applies to:

- all contracts involving the expenditure of public funds or awards by a central public authority to another party employing workers for public works, manufacturing materials, supplies or equipment or the provision of services; and
- work carried out by subcontractors.

Protection of Wages Convention, 1949 - No. 95; (Ratified: 15 June 1976)

The aim of Convention No. 94 is the adequate payment of wages with guarantees and protection against abuse and it contains provisions regarding the payment of wages.

According to these:

- wages payable in money shall be paid in legal tender (by cheque authorized under certain circumstances);
- wages shall normally be paid directly to the worker concerned. The workers' liberty to dispose freely of their wages, without any coercion to make use of works stores should be protected. The operation of works stores:
  - shall be subject to limited deductions according to regulations,
  - shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the workers family; and
  - shall be treated as a privileged debt in the event of the bankruptcy or judicial liquidation of an undertaking.

Other subjects of Convention No. 94 are regular payment of wages; pay days; places of payment; and communication with workers regarding payment. Ratifying States are obliged to prescribe measures including adequate penalties and remedies to ensure it is implemented. Convention No. 94 applies to all persons to whom wages are paid or payable with possible exclusions after tripartite consultations. Partial payment of wages in kind (except payment in high alcoholic-content liquor or noxious drugs) may be authorized under certain circumstances and conditions.

General conditions of employment

Weekly Rest (Industry) Convention, 1921 - No. 14; (Ratified: 15 June 1976)

The Convention seeks to guarantee at least 24 consecutive hours of rest per week in industrial undertakings.

All workers employed in any industrial undertaking shall enjoy, in every period of seven days, a period of rest comprising of at least 24 consecutive hours. This period of rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking and shall coincide with the days already established by the traditions or customs of the country or district. Certain exceptions may be authorized, for which as far as possible, compensatory periods of rest shall be provided. Employers are obliged to notify the whole staff by notices or otherwise of the days and hours of collective rest and to keep a roster of special systems of rest.

Weekly Rest (Commerce and Offices) Convention, 1957 - No. 106; (Ratified: 15 June 1976)

The Convention guarantees at least 24 consecutive hours of rest per week in commerce and offices.

Convention No. 106 applies to:

- all public or private trading establishments, institutions and administrative services, in which the workers employed are mainly engaged in office work including offices of persons engaged in the liberal professions; and
- administrative services of certain other establishments mentioned.

Convention No. 106, however, authorizes a certain number of exclusions, special schemes and temporary exemptions. Ratifying States shall guarantee a weekly rest period of not less than 24

consecutive hours in the course of each period of seven days. Where special schemes and temporary exemptions apply, a compensatory rest period of equivalent duration shall be granted. The period of rest shall, wherever possible, be granted simultaneously to the whole staff of each undertaking and shall coincide with the days already established by the traditions or customs of the country or district.

Convention No. 106 lists the different ways of giving effect to its provisions. The application of the measures taken in accordance with the provisions of the Convention shall not entail any reduction of the income of the persons covered by it. Adequate supervision and inspection and appropriate penalties should be in place.

Paid leave

Holidays with Pay (Agriculture) Convention, 1952 - No. 101; (Ratified: 15 June 1976)

The aim of Convention No. 101 is to secure an annual holiday with pay in agricultural undertakings. Workers employed in agricultural undertakings and related occupations shall be granted an annual holiday with pay after a period of continuous service with the same employer.

The ratifying State determines, in the manner approved by the competent authority:

- the minimum period of continuous service and the minimum duration of the annual holiday;
- to which undertakings, occupations and categories of workers employed in agricultural undertakings the Convention shall apply after consultation of employers and workers;
- the division of the annual holiday within certain limits; and
- the calculation of the remuneration payable in respect of the holiday.

Every person taking a holiday shall receive in respect of the full period of holiday not less than his usual remuneration or such remuneration as prescribed by a manner approved by the competent authority. Ratifying States can make exclusions regarding the application of all or some provision for certain categories of persons. An agreement to relinquish the right to annual holiday with pay or to forgo such holiday shall be void.

Convention No. 101 provides for payment of remuneration in respect of holidays due in case of dismissal for reasons other than serious misconduct. Ratifying States are required to ensure the application of the provisions of the Convention by an adequate system of inspection.

Occupational safety and health

Protection against specific risks and toxic substances and agents

White Lead (Painting) Convention, 1921 - No. 13; (Ratified: 15 June 1976).

Convention No. 13 intends to prevent lead poisoning, which is caused by sulphates of lead and white lead. It prohibits the use of white lead, sulphate of lead and all products containing these pigments in the internal painting of buildings. The employment of young persons under 18 years of age and of all women in painting work of an industrial character involving the use of these products is also prohibited. Permitted uses are regulated in accordance with principles provided for by Convention No. 13, which outlines hygiene and safety measures to be taken in such cases.

Protection in given branches of activity - Building Industry

Safety Provisions (Building) Convention, 1937 - No. 62; (Ratified: 15 June 1976)

The purpose of the Convention is to reduce (both on humanitarian and on economic grounds) the serious accidents and risks involved in construction.

The general rules set forth in this Convention apply to all work done on the site in connection with the construction, repair, alteration, maintenance and demolition of all types of buildings. The ratifying State undertakes that it will maintain laws or regulations:

a. ensuring the application of the General Rules set forth in Convention No. 62 (Part II-IV); and

b. in virtue of which an appropriate authority has power to make the relevant regulations.

These laws or regulations ensuring the application shall:

- require employers to bring them to the notice of all persons concerned;
- define the responsible persons for compliance therewith; and
- prescribe adequate penalties for any violation thereof.

The ratifying State shall maintain a system of inspection to ensure the effective enforcement of relevant laws and regulations. Convention No. 62 provides for exemptions regarding work of certain character or certain areas in the territory of the State. The General Rules refer to scaffolds (part II), hoisting appliances (part III) and safety equipment and first aid (part IV).

Dock work

Marking of Weight (Packages Transported by Vessel) Convention, 1929 - No. 27; (Ratified: 15 June 1976)

Convention No. 62 prescribes the marking of weights of 1,000kg or more for packages or objects transported by sea or inland waterway.

Any package or object of 1,000kg or more gross weight shall have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel. Convention No. 62 provides for the protection of dock workers employed in loading and unloading operations. The national laws or regulation of the ratifying State determine on whom the obligation for having the weight marked shall fall.

5.7 Social security

Comprehensive standards

Equality of Treatment (Social Security) Convention, 1962 - No. 118; (Ratified: 15 June 1976)

The aim of Convention No. 118 is to ensure within the territory of any ratifying state, equal treatment in respect of social security for refugees, stateless persons and nationals of another ratifying State.

Ratifying States undertake to grant to nationals of any other ratifying State and to refugees and stateless persons, equal treatment to their own nationals in respect of social security. This applies to coverage

and the right to benefits granted in respect of every branch of social security for which the ratifying State has accepted the obligations of Convention No. 118. Equal treatment shall be accorded without any condition of residence. The ratifying State may accept the obligations of Convention No. 118 in respect of legislation covering its own nationals within its own territory: medical care and benefits related to sickness, maternity, invalidity, old age, survivors, employment injury, unemployment and family.

Benefits pertaining to invalidity, old age, survivors, death grants, and employment injury shall be guaranteed, even when resident abroad, to the nationals of the ratifying State, as well as to nationals of any other State that has accepted the obligations of Convention No. 118 for the corresponding branch. Family allowances shall be guaranteed, both to nationals of the State and to nationals of any other State which has accepted the obligations of Convention No. 118 for the same branch, in respect of children resident within the territory of one of these States. States that have ratified Convention No. 118, shall endeavour to participate in schemes for the maintenance of acquired rights and rights in the course of the acquisition. Convention No. 118 does not apply to special schemes for civil servants, schemes for war victims or public assistance.

On ratification of Convention No. 118, Suriname accepted only the obligation in respect of the employment injury benefit.

Protection in the various social security branches

Employment injury benefit

Workmen's Compensation (Accidents) Convention, 1925 - No. 17; (Ratified: 15 June 1976)

The objective of Convention No. 17 is to ensure minimum compensation for workers suffering personal injury due to industrial accidents or their dependents.

The compensation to workers suffering personal injury due to an industrial accident (or their dependents) shall be on terms at least equal to those in the Convention No. 17. The compensation payable to injured workers or their dependents shall be paid in the form of periodic payments with the possibility to convert it to a lump sum.

Injured workers shall be entitled to:

- additional compensation if injury results in incapacity requiring constant help of another person;
- medical aid and to such surgical and pharmaceutical aid as recognized necessary; and
- the supply and normal renewal of such artificial limbs and surgical appliances as deemed necessary or the award of a sum representing the probable cost of the supply and renewal.

National laws or regulations shall:

- prescribe measures of supervision and methods of review;
- provide for supervisory measures as are necessary to prevent abuses in connection with the renewal of appliances or utilization of the additional compensation; and
- make provisions regarding insolvency of the employer or insurer.

Convention No. 17 applies to workers, employees and apprentices employed by any enterprise undertaking or establishment. Ratifying States can make exceptions for certain categories of workers. The Convention does not apply to seafarers and fisherfolk, persons covered by some special schemes more favourable than provided in Convention No. 17 and to agriculture.

Equality of Treatment (Accident Compensation) Convention, 1925 - No. 19; (Ratified: 15 June 1976)

Convention No. 19 promotes the equality of treatment for national and foreign workers as regards workmen's compensation for accidents. Ratifying States undertake to grant to the nationals of any other ratifying State who suffer personal injury due to industrial accidents happening in its territory or to their dependents the same treatment as to its own nationals. Equality of treatment shall be guaranteed to foreign workers and their dependents without any condition as to residence. They shall also institute a system of worker's compensation for industrial accidents whether by insurance or otherwise.

Ratifying States undertake to afford each other mutual assistance to facilitate the implementation of Convention No. 19 and the execution of relevant laws and regulations. Ratifying States can make bilateral agreements with other states regarding payments and the application of national laws and regulations.

Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 - No. 42; (Ratified: 15 June 1976)

The aim of Convention No. 42 is to secure workers' compensation for occupational diseases.

Convention No. 42 provides compensation payable to workers incapacitated by occupational diseases or in case of death from such diseases, compensation to their dependents. The rules should be no less favourable than those prescribed by national legislation for injury resulting from industrial accidents. Ratifying States may make such modifications and adaptations, as they deem expedient in determining the conditions for payment and application of their legislation to said diseases. Convention No. 42 compiles a list of diseases and toxic substances and the corresponding trades, industries or processes for the consideration of the ratifying States in a schedule.

6

Legislative summaries

6.1 Civil Code

The Civil Code (CC) contains provisions in Book III, title 7a, regulating the relationship between workers and employers in an employment contract. According to the contract law, all private persons, including workers and employers, are free to conclude agreements, including employment contracts which take legal restrictions and requirements into account. Minors (persons under 21 years, who have never been married) are only qualified to enter into an employment contract if they have either oral or written authorization from their statutory representative (article 1613g, paragraph 1). Authorization is considered to be given if the minor performs duties without opposition or objection of the statutory representative during six weeks after conclusion of the employment contract (article 1613h). An employment contract between spouses is null and void (article 1613i).

Book III, title 7a contains special provisions to promote good industrial relations between workers and employers in an employment contract. The most relevant duty is to act as befits a good worker or employer (articles 1614y and 1615d).

Types of contract

The CC refers to three types of contracts to perform work:

- the employment contract;
- the contracting for work; and
- the contract or instruction to render services.

The CC puts emphasis on the employment contract: the contract whereby one party (the employee) binds himself/herself to perform work for the other party (the employer) for remuneration while being employed by the latter for a certain time (article 1613a). An employment contract requires no prescribed form, and it can even be based on an oral agreement.

Standing employment conditions

The CC deals with the standing employment conditions and its legal requirements for validity (article 1613j). A clause or declaration of the employee which binds the employee to agree with any new standing employment conditions or the amendment of an existing one in the future, is void (article 1613l). Stipulations deviating from the standing employment conditions must be agreed upon in a special contract, in writing (article 1613m).

Elements of remuneration

The remuneration of workers should only consist of:

- cash;
- food and nourishment;
- means for artificial light;
- clothing;
- products of the enterprise (the barest necessities of life);
- free use of a house or land;
- services from the employer (such as cleaning of house, free transportation or medical care), education by the employer (such as mathematics, languages);
- benefits after some years of employment during vacation; and
- free transportation to country of origin (article 1613p and Holidays Act).

Fines

To maintain order in enterprises, the employer can use fines as an instrument to influence the observance of company rules. However, the imposition of fines which is a fixed amount has to meet the following conditions:

- the relevant rules and the fixed fine have to be exactly stated in the standing employment conditions or written agreements; and
- the intended use of the fine has also to be stated. The imposition of the fine does not benefit the employer (article 1613u).

Obligation to pay remuneration

The employer is obliged to pay remuneration during the term of the employment contract (articles 1614 and 1614a) for work done, observing the “no work no pay” principle (article 1614b).

Some exceptions to the “no work no pay” principle, are:

- sickness during a short period (six weeks) including sickness related to maternity and non-industrial accidents, for workers being sick for more than two days and employed longer than four months (article 1614c, paragraphs 1 and 4). The obligation to pay does not apply if the sickness existed or is caused by circumstances before employment, by unethical code of conduct or use of alcohol or drugs. The obligation to pay does not exist if the sickness is self-inflicted (article 1614c, paragraph 1). According to the CC, the burden to provide evidence on the sickness or to prove satisfactorily by submitting a medical certificate or otherwise, falls upon the worker (article 1614c, paragraph 1);
- holidays (Holidays Act);

- discharge of statutory obligations (article 1614c, paragraph 6.);
- special circumstances such as birth, death, marriage and burial (article 1614c, paragraphs 6 and 7);
- when the employer is not able to make use of the services of the employee who is able and willing to work (article 1614d); and
- suspension when such is not agreed upon in written contract (collective bargaining agreement) or standing employment conditions by virtue of article 1614d, paragraph 2.

During strikes, the employer can lawfully apply the principle of "no work no pay". This rule is also applicable in the public sector.

The employer is forbidden directly or indirectly to:

- charge interest on a loan arranged by the employer or on advance payment of wages;
- impose levies on the use or maintenance of equipment belonging to the employer; and
- hold one employee liable for obligations of another employee or to accept him/her as a guarantor (article 1614p, paragraph 3).

Late payment of salary/wages

By law, the employer is obliged to pay a salary increase if the remuneration is paid three days later than it is due. This rule applies if the late payment is due to circumstances relating to the employer. The additional pay is five per cent per day from the fourth to the eighth day and an additional one per cent per day thereafter and subject to a maximum of 50 per cent (article 1614q).

Deductions from salary/wages

Deduction from the salary is allowed for debts to the employer not exceeding twenty per cent of every payment for fines, contributions to funds and purchasing prices of household goods and advance payment of wages. Deductions must not exceed forty per cent compensation/damages, rental, medical costs, taxes and payments made in error exceeding the exact remuneration due, for example miscalculations (article 1614r).

Termination of employment

An employment contract is for a fixed term or for an indefinite period. Both contracts can be terminated in the following manner:

- Notice for termination of a contract for a fixed term is only required when such is stipulated (first contract) or in case of a continued employment contract or a contract considered to be continued (article 1615e and f). In order to give notice, the employer must apply for a dismissal permit;
- Termination without notice and with compensation for termination other than for urgent grounds/ serious misconduct (article 1615, paragraph 1);

- Death of the worker (article 1615j); Death of the employer results in termination of the employment contract only if this is stipulated (article 1615k);
- Instant dismissal on urgent grounds such as for good and sufficient cause/serious misconduct (article 1615p) without notice or compensation. Employers should, in this case, immediately dismiss the employee and notify the Labour Inspectorate within four days for its approval or objection (Dismissal Act 2018). The CC lists some reasons for instant dismissal for employers and workers (articles 1615p and q). Urgent reasons for the employers are in general such acts, or conduct of the employee, which makes it unreasonable to require the employer to continue the employment relationship. Some examples stated in the CC (article 1615p) are related to:
  - misleading of the employer by supplying false information or submitting false or forged documents to influence his/her entering into employment;
  - serious lack of skills and competencies of the worker;
  - drunkenness or other misbehaviour of the worker;
  - theft, embezzlement, fraud or other criminal offenses of the worker affecting the trust of the employer;
  - offences of the worker affecting the trust of the employer;
  - assault, gross insult or threat of the employer, their family or colleagues;
  - threats to the employer, their family members or colleagues;
  - vandalizing the employer's property;
  - breach of confidentiality by the worker;
  - refusal by the worker to do a particular job;
  - negligence by the worker in relations to his duties; and
  - the inability of the worker to perform duties due to his/her own acts.

Urgent reasons for the worker are conditions, which make it unreasonable for him/her to continue the relationship (article 1615q). Some grounds stated in the CC are those related to:

- assault by the employer or his family members;
- threats to the worker or their family members;
- late payment of wages/salaries;
- non-performance of the employer regarding board and lodging, if such is stipulated;
- insufficient of work or assistance to the worker, if such is stipulated;
- neglection of duties;
- orders from the employer to perform duties for another employer without reasons;

- safety for life, health, morals and honour; and
- sickness.

An employment contract can also be terminated by dissolution by court for serious misconduct (article 1615x). Some other ways to terminate the employment contract are:

- Immediate notice during a stipulated probationary period (maximum two months);
- termination with mutual consent;
- termination by court on request of the statutory representative (1615m); and
- the request of the Procurator-General (article 1615n) in case of employment of a minor.

Probationary period

Probationary periods can be stipulated at the beginning of employment or for a new position, but are not obligatory. According to the CC, probationary periods have to be stipulated when the employer or worker deem it necessary and should last a maximum of two months. When a probationary period is stipulated, the duration should be the same for the employer and the worker. Even if they are shorter than the maximum duration of two months, probation should not be extended. Any stipulation contrary to the above-mentioned is null and void (article 1615l).

Notice period

In every case where notice for termination of the employment contract is required, a notice period is applicable regardless of which party (the employer or the worker) wishes to terminate. The duration of the notice period depends on the length of the employment and the term of payment whether monthly, weekly or other. The length of employment determines the length of the notice period. In the CC, different levels of minimum notice period are mentioned for employers and for workers (article 1615i).

Sickness

It is prohibited for the employer to terminate the contract during sickness while the worker is entitled to remuneration (article 1615h, paragraph 2). For entitlements to remuneration see “Obligation to pay remuneration”.

Testimonial

The employer is obliged to give a testimonial to the worker on his/her request at the termination of the employment. It must contain a factual description of the duties/work performed by the worker and the terms of employment. If requested, the testimonial should state the manner in which the duties were fulfilled and the reason for the termination of the employment contract (article 1614z). If the employer without reasons terminates the employment, the employer is obliged to state this in the testimonial. The employer is not obliged to state the reason. If the worker terminates the employment unlawfully, the employer is entitled to state this in the testimonial (article 1614z, paragraph 2).

The employer is liable to damages to the worker and third parties if the employer:

- refuses to give a testimonial;

- deliberately includes false information in the testimonial; and
- deliberately includes some features or signs in the testimonial to furnish additional information which is not specifically stated in the testimonial (article 1614z, paragraph 3).

6.2 Contract Labour Act

In 2018, the legislator put an end to the widespread but undesirable practice of the unlimited extension of employment contracts for a definite period of time with the approval of the Contract Labour Act.[11]

Conversion from a fixed-term employment contract to an employment contract for an indefinite period

Article 3 (paragraphs 1 and 2) limits the duration of the uncertainty of fixed-term employment contracts. Paragraph 1 also limits long-term fixed-term employment contracts which exceed the period of 24 months. Paragraph 2 limits the continuous renewal of the shorter contracts and now offers the prospect of a fixed-term employment contract and more certainty at some point for the worker. The conversion from a fixed-term employment contract to an employment contract for an indefinite period takes place at the moment of conversion in paragraph 1 (the 25th month) or earlier according to paragraph 2 (commencement of the fourth employment contract).

The conversion of fixed-term employment contracts to a permanent contract is not prevented by takeovers of companies. A clause in violation of the conversion as mentioned above (from definite to indefinite period) is null and void, unless it is in favour of the employee (article 3, paragraph 6).

This law does not affect the employer's option to enter into employment for the sole purpose of carrying out a project, the end of which can be determined objectively by facts and circumstances. This type of employment contract ends ipso jure.

Temporary workers and retirees

This Act does not apply to workers as referred to in the Private Employment Agencies Act[12], specifically with regard to the conversion of a fixed-term contract to an indefinite period (article 2). It also does not apply to employees who have reached the retirement age, as cited in article 1, §i of the General Pension Act 2014.[13]

Written employment contract, statement of conversion and pay slip

Article 4 paragraph 1 indicates that when an employment contract is entered into or amended in writing, the costs of the writing and other additional costs are borne by the employer.[14] The employer is obliged to provide the employee with a complete and signed copy of the employment contract (article

11 SB 2018 No. 93 (Wet Omzetting Arbeidsovereenkomst Bepaalde Tijd naar Onbepaalde Tijd).

12 SB 2017 No. 42.

13 SB 2014 No. 113.

14 Article 4 is based on article 1613d CC ("When an employment contract is entered into in writing, the costs of the deed and other additional expenses are borne by the employer.") and article 654 of the draft NBW. Compared to the current Civil Code, it is new that the costs of also the amendment to a written employment contract are borne by the employer.

4, paragraph 2) which needs to include some specific stipulations. Non-compliance with this obligation does not mean that the employment contract does not exist or has become invalid. The employer is obliged to provide the employee with proof when paying his wages stating certain specifications (article 3, paragraph 4).

Conversion statement

The employer is obliged to provide the employee with a statement signed by the employer at the moment that the employment contract for an indefinite period comes into effect after the conversion (article.5). The written statement must contain certain detailed information (article 5, paragraph 2).

Vacancy notice

The employer is obliged to announce internal vacancies of positions for an indefinite period in the company in a timely manner within the company or organization.

Revolving door system draaideurconstructie

Article 7 is intended to prevent circumvention of this law. The employer is prohibited from employing a person subsequently as an employee with a fixed-term employment contract and then as a temporary agency worker as referred to in the Private Employment Agencies Act. In the event of non-compliance with the foregoing, the worker is deemed to have an employment contract for an indefinite period with the employer concerned.

6.3 The Labour Code

Working hours

The maximum working time in enterprises is in general 8½ hours per day or 48 hours weekly according to the Labour Code[15]. Shorter working times can be prescribed by State decree for labour of certain character or under certain conditions (article 3). The maximum working time for workers exclusively engaged in security activities is 12 hours per day and 72 hours per week and for workers mainly but not exclusively engaged in security activities, 10 and 60 hours. The Minister of Labour can prescribe longer working time for certain categories of workers, enterprises or types of enterprises (article 4). For certain enterprises (Bruynzeel) and types of enterprises (mining (bauxite) and related constructions, building and some utility enterprises), longer working hours have actually been regulated by State decrees and per Ministerial Decree for gold companies IAmGold/Rosebel Gold Mines and Newmont/Surgold.

Overtime

Overtime is work performed for longer hours than prescribed in law or stipulated (see Labour Code articles 12, paragraph 1; and article 15). Permits allowing overtime can be granted during times when excess work occurs or in special circumstances:

- by the Inspector-General (I-G) incidentally or in general for all or some categories of workers, subject to a maximum of 64 hours per week (article 6, paragraphs 1 and 2); and

15 Act of 19 December 1963 (GB 1963 No. 163) as lastly amended by SB 2001 No. 71.

- by the Minister of Labour incidentally subject to a maximum of 72 hours per week and 2900 hours per year (article 6, paragraph 3).

In cases of emergency, authorization can be given for overtime work by the I-G, under the rules of the Labour Code (article 7).

Shift work

As stated under "Working hours" above, the Labour Code stipulates the maximum working hours in order to protect individual employees. For enterprises where work is generally performed for longer than 8½ hours daily or 48 hours weekly, employers can operate shift systems with the approval of the I-G (article 11, paragraph 1), and approval can be subject to certain conditions.

Night work

Employers are, in general, prohibited from employing labour between 7 p.m. - 6 a.m. (article 8, paragraph 2a). This regulation is not applicable for the workers mentioned in article 4 who are permitted in the Labour Code to work longer than 8½ hours daily or 48 hours weekly: workers engaged in mainly or exclusively security services (article 8, paragraph 4). Apart from that, exceptions can be made for all or certain categories of workers on request of the employer (incidental permit) or for all or certain categories in a group of enterprises (general permit) for industrial establishment, catering establishments, hotels, cinemas, and garages, among others.

The I-G can prescribe conditions in the permit, examples of which are given in article 10, paragraph 2. In both cases, consultation by the I-G with the relevant labour unions as prescribed, is required (article 10, paragraph 1). The employer should also be consulted in case of the general permit.

Different rules do not apply to children and young persons (article 10, paragraph 4).

Overtime pay

The minimum additional pay for overtime is:

- during the week: fifty per cent (article 12, paragraph 2; and article 15);
- on Sundays and public holidays and on compensating days of rest, one hundred per cent (article 12, paragraph 2);
- in all cases of work on Sundays, one hundred per cent (article 13, paragraph 1). The worker is additionally entitled to compensation of one free day of 24 consecutive hours;
- on public holidays, one hundred per cent (article 13, paragraph 1). The worker has the right to compensation of one free day of 24 consecutive hours; and
- on public holidays, two hundred per cent if it is stipulated in a written employment contract or collective bargaining agreement that the worker is not entitled to a free compensation day (article 13, paragraph 2).

Breaks

The employee is entitled to a break of at least ½ hour after five hours of uninterrupted work during a workday lasting more than six hours (article 9, paragraph 1). A break shorter than 15 minutes is

considered as working time according to the law (article 9, paragraph 3). A longer minimum break can be prescribed by the I-G for certain categories of labour (article 9, paragraph 1). According to the Labour Code, the I-G can also give authorization for different rules regarding breaks under certain conditions (article 9, paragraph 2). He can also issue a permit on request of the employer for different regulations for enterprises under special circumstances (article 10, paragraph 3).

Rest days

The Labour Code prohibits employees from working on Sundays and public holidays (article 8, paragraph 1). The worker is entitled to one free morning (before 1 p.m.) or afternoon (after 1 p.m.) in a week (article 8, paragraph 2b).

The I-G can permit, in special circumstances, different rules for industrial establishments, catering establishments, hotels, cinemas and garages among others, incidentally or in general (article 10, paragraph 1) under certain conditions (article 10, paragraph 2) regarding the weekly free morning or afternoon and work on Sundays and public holidays for all or certain categories of workers. Consultation by the I-G with the relevant labour union(s) is obligatory. The employer should also be consulted in case of the general permit.

Different rules do not apply to children and young persons (article 10, paragraph 4).

Payment

Article 22 contains some prohibitions on the places where payments can be made with some exceptions. Payments in cash shall not be made:

- in bars, restaurants or similar places;
- in public entertainment places; and
- in shops or stores for foodstuffs.

The prohibition does not apply to workers employed in these establishments listed above. The payment in cash shall take place during working hours (article 22).

Labour inspection

The Labour Code entrusts managers, statutory representatives and workers with some responsibilities regarding cooperation with labour inspection (article 23).

Employers are obliged to keep “lists” and “registers” in a certain format with information on workers, working hours, breaks, overtime and free (compensation) days (article 24); access to these lists for inspection should be allowed (article 25). The Labour Inspectorate, police and specially nominated inspectors of the Ministry of Labour, enforce the observance of the requirement in the Labour Code (article 31). The Labour Inspectors have certain powers and responsibilities regarding entrance of workplaces and houses (article 32) and confidentiality (articles 33 and 34).

Appeal

The Minister of Labour is the appellate authority against decisions taken by the I-G pursuant to the Labour Code (article 26). Appeal should be made within 14 days after the decision. An appeal can also be made if the Labour Inspectorate does not decide on applications within a reasonable period.

Accountability/liability

Managers, middle management, if applicable, and statutory representatives or heads of family are responsible for the observance of the rules of the Labour Code and are accountable/liable for non-observance of the rules therein (article 28).

Penalties

Non-observance of the rules of the Labour Code leads to penalties laid out in fines or imprisonment (articles 29 and 30).

6.4 Child Labour Act

In 2018, due to the ratification of ILO Convention No. 138, the legislation regarding child labour was updated. A new minimum age for admission to work was introduced as well as provisions regarding light work and permissible work by children of a certain age under certain restrictions and conditions. With the approval of the Child Labour Act (CLA), the Articles in the Labour Code relating to child labour were cancelled.[16] Adequate protection of children against child labour is ordered by the Constitution.

In this law, partly because of ILO Convention No. 138, separate rules are set for children of 13 and 14 years old and of 15 years old. A distinction has also been made between the school period (school week) and the holiday period.[17] A differentiation is made between the different types of work, to which different permitted and prescribed work and rest times always apply.

The CLA makes a distinction between light work during the school period (school week) and light work during the school holiday period (holiday week). The legislation also introduces and defines work of a light nature. Physical and mental development and school (including vocational training) are extremely important in this respect. Light work is not industrial work. The element of "unacceptable security risks" is important in the definition (§o). Unacceptable safety risks for a child are in any case present when working with or in the vicinity of mechanical work equipment where there is a chance of fire, electrocution, crushing, cutting or falling hazard. The element of supervision is important.

New concepts

The law defines labour as "all activities within and outside an enterprise, with the exception of activities in schools, rehabilitation centres and educational institutions, provided that these activities are of an educational nature and are not primarily aimed at obtaining an economic advantage". Article 1, b indicates that it does not matter whether the work is carried out inside or outside an enterprise.[18]

Activities in schools, rehabilitation centres and educational institutions are not covered by this law, although the activities must have an educational character and not primarily be aimed at profit. Activities in or for the benefit of the household of which the child is a part, are outside the scope of the CLA. The

16 Child Labour Act Wet Arbeid Kinderen en Jeugdige Personen, SB 2018 No. 76.

17 Compulsory education is established by Act of 22 September 1960 for Regulation of the Basic Education in Suriname (GB 1960, No. 108). According to article 20 of this act, parents, guardians or caretakers are obliged to let the children or pupils from 7–12 years, upon which they have parental authority or which are entrusted to their care, where such is possible, receive basic education on a regular basis.

18 With regard to the work of children, the Labour Code applied to any natural or legal person, regardless of whether or not there was an enterprise. Ermine 1992, p. 76.

work does not concern the performance of activities in or for the benefit of the household to which the child belongs.

"Work of a light nature" is understood to mean "work which, by the nature of the tasks it includes or the special circumstances in which those tasks are performed:

i. is not harmful to the safety, health and development of children; and

ii. is not prejudicial to regular school attendance and opportunities to participate in vocational guidance or training programmes approved by the competent authority, or to benefit from the educational instructions received".

According to the law, child labour is 'work that is forbidden to be performed by children because it can be dangerous or harmful to the health, physical, mental, intellectual, moral or social development and life of the child, as well as work that falls under the worst forms of child labour'. Children are defined as:

i. persons who have not yet reached the age of 16 years; and

ii. on board fishing vessels within the meaning of the "Sea Fisheries Act 1980": persons who have not yet reached the age of 18 years.[19]

Young persons are the 16 and 17 year olds, a separate category in the CLA. This group of people is allowed to access the labour market after the compulsory school age according to the legislation. Labour must not be dangerous. The Hazardous Labour Decree indicates what is dangerous for young persons and therefore is not regulated in detail in the CLA. The Hazardous Labour Decree provides direction in this respect. Logically, what is not allowed for young people, is also forbidden for children as they fall into a younger age group.

For the description of the worst forms of child labour, the description as laid down in ILO Convention No. 182, article 3.

Exceptions

Article 2, paragraph 1 indicates that the CLA does not apply to incidental work or work of short duration concerning:

- family activities; or
- light work that is not considered to be harmful, detrimental or dangerous in general and in particular for children or young persons on the family farm or in traditional habitats and habitats of tribal peoples, where children are taught traditional skills for their livelihood.

Conditions for children's work

If children or young persons are allowed to work under certain conditions by law, the employer or the head of the family is obliged to provide a number of guarantees (article 2, paragraph 2). Paragraph 2 mentions the conditions that remain applicable, even in a family business based on the protection of children and young persons and the burden on the body or mind must be appropriate to the age.

19 According to the Sea Fishing Decree C-14; SB 1980 No. 144 of 31 December 1980, a fishing vessel is a ship that is professionally used or is designed to be used for the fishing on sea (that is fishing in the Fishing Zone).

The employer and the head of the family must inform the children and young persons about possible risks and about all measures to protect their safety and health (article 2, paragraph 3). The employment contract with the children and young persons, if permitted by this law, must be entered into in writing, with the parents or guardians also as signatories (article 2, paragraph 4).

Liability of parents and caretakers

According to article 3, paragraphs 1 and 2, employers, heads and directors of companies, parents and/or guardians or persons entrusted with the care of a child, are prohibited from having the child perform work, whether or not for wages, other than as stipulated in the CLA. These persons are obliged to ensure that the child placed under their supervision does not perform child labour. They are punishable in case of breach, even if child labour occurs despite assistance rendered by the government to the household where the children belong.

Employers are obliged to keep records of the age and names of their employees and those who are in the company for vocational training or other training and to ensure that the data is correct (article 3, paragraph 3).

Mandatory notification

Anyone who is aware of the violation of the provisions of the CLA is entitled, but also has the duty to report this to the authorities responsible for supervision and investigation (article 3, paragraph 4).

Non-industrial auxiliary work by 13- and 14-year-olds

According to article 4, paragraph 1, children who have reached the age of 13 but have not yet reached the age of 15 are permitted to perform non-industrial auxiliary work of a light nature. Article 4, paragraph 2 lists a number of conditions for the admission of work by this age group.

School week and holiday period

The law has conditions and restrictions for the performance of work during the school week and the holiday period, the work is performed on no more than five days per week at most (article 4, paragraphs 3-5). A State decree should specify the forms of light work that may be performed by children who have already reached the age of 13, as well as the forms of work that do not fall under work of a light nature (article 4, paragraph 6).

Non-industrial labour by 15-year-olds

Article 5, paragraph 1 allows children who have reached the age of 15 to perform non-industrial work of a light nature. A number of conditions do apply to the performance of this work (article 5, paragraph 2).

Internship and vocational training

A child aged 14 or older is permitted to perform light work in the context of an internship or vocational training (article 6, paragraph 1). Work of a light nature also includes work for which a child permanently must wear personal protective equipment (article 6, paragraph 4). The conditions for internship and vocational training labour that apply are stipulated in article 6, paragraph 2.

Artistic performances

Article 7 states that the Labour Inspectorate must issue guidelines and conditions for employers, parents and caretakers with regard to work of a light nature, making a distinction between 13- and 14-year-olds and 15-year-olds.

Exception Labour Inspectorate for 15-year-olds

Article 8, paragraph 1 allows the Labour Inspectorate to grant an exemption for a child of 15 years of age from performing non-industrial work of a light nature at the joint request of the employer and a parent or caretaker, if also exemption has been granted by compulsory education authorities. The Labour Inspectorate is bound by conditions mentioned in article 8, paragraph 2).

Rest and prohibition of overtime

In cases where work is permitted by law for children who have already reached the age of 13, the child will take a break of at least half an hour consecutively after 4½ hours of consecutive work (article 9, paragraph 1). In cases where work is permitted for children who have already reached the age of 13, overtime is prohibited (article 9, paragraph 2).

The law has a provision regarding concurrence of several categories of work that is permitted.

Young persons

Employers, parents and/or guardians or persons entrusted with the care of a young person are prohibited from having him/her perform night work, whether or not for wages, or work that is dangerous to the health, morality or life (article 11, paragraph 1). Under certain conditions, certain labour is permitted for young persons. (article 11, paragraph 2). Article 11, paragraph 3 stipulates that the Hazardous Labour Decree (SB 2010 No.175) applies with regard to work that is considered dangerous. Article 11 makes employers, parents and/or guardians or persons entrusted with the care of a young person, responsible when they are engaged in work that is dangerous to health, morality or life. Hazardous work is described in the Hazardous Labour Decree.

Appeal possibility

The Head of the Labour Inspectorate is permitted to take measures pursuant to the CLA. Article 12 regulates the possibilities of appeal for interested parties. The interested party may appeal to the Minister of Labour against any decision by or on behalf of the Head of the Labour Inspectorate.

Liability

The employer and the head or director of an enterprise are obliged to ensure that no activities are performed in that enterprise in contravention of the provisions of or pursuant to the CLA. An equal obligation as mentioned here rests on the supervising staff, insofar as the staff is charged by the head or the director, with ensuring that these provisions are complied with (article 14, paragraphs 1-4). The legal representative of a child or the head of the family is also liable for activities performed for that child in violation of this law (article 14, paragraph 5).

Social support

Article 16 states that the legal representative and the head of the family risk a sanction if the violations are first carried out in an extensive social investigation into the families and children or young people involved. The investigation is instituted by a standing committee set up by the Minister of Social Affairs and Housing, consisting of persons with expertise in family counselling, education and public health. The committee will issue a report on the investigation. If it is established from the investigation that the aforementioned violations were motivated or were the result of the social circumstance, no sanctions will be imposed. This household will then receive the following support:

1. support for the family, the child or the young person, so that the child or young person in the family can provide for themselves without having to perform work;

2. individual and family counseling, shelter and other support measures for the children or young people involved.

The CC stipulates that the employer is obliged with regard to under-aged employees to arrange the work in such a way that, according to local custom, they are given the opportunity to attend classes in institutions for religious, secondary, refresher or vocational education. Any clause in violation of this is null and void (article 1614w, paragraph 2).

6.5 Hazardous Labour Decree

Hazardous labour

The Hazardous Labour Decree for young persons divides hazardous labour in two main categories:

1. hazardous labour due to the character of the work; and

2. hazardous labour because of the working conditions.

The categories are divided in subcategories, where some examples are mentioned not exhaustively.

Hazards because of the character of work

This category is again divided in six sub-categories.

1. Accident hazards;

2. Biological hazards;

3. Chemical dangers;

4. Ergonomic dangers;

5. Physical dangers; and

6. Psychosocial dangers.

Dangerous labour due to working conditions

This category of hazardous labour is classified in three sub-categories.

1. Neglect of safety regulations;
2. Unhealthy working environment; and
3. Climatological circumstances.

6.6 Pesticides Decree 2005

The Pesticides Decree 2005[20] stipulates that it is forbidden to use pesticides, where hazard symbols are indicated on the packaging, by means of persons under the age of 18. It is also prohibited to use pesticides other than by personnel above the age of 18 (article 14). This article also considers the situation where children from the family help out, without receiving money in return (article 1 paragraph 2). Also, in Safety Regulation No. 1 and Safety Regulation No. 8, there are provisions with a minimum age of 18 years that are relevant in the context of child labour (see paragraph 6.12).

6.7 The Collective Bargaining Agreements Act 2016

The new Collective Bargaining Agreements Act[21] (CBAA) is the modern version of the 'Act of 14 July 1962[22] to regulate the collective bargaining agreement procedures, to which reference will be made as the 'old law'. The CBAA is brought in line with the fundamental Conventions of the ILO and the standards of the Caribbean Community (CARICOM). All CBA's in Suriname are company CBA's (and not sectoral CBA's).

According to the definition of a collective bargaining agreement (article 1, paragraph 1), only an organization of workers and employers or their organizations can conclude collective bargaining agreements. A collective agreement is defined as the agreement entered into by one or more employers or one or more employers' associations and one or more associations of employees, including mainly or exclusively employment conditions that must be observed in employment contracts. The associations mentioned in the definition should always be legal entities.

The CBAA deals in most of the provisions with the formal and other requirements of collective bargaining agreements (article 2, paragraphs 1, 5, 8, 9–15, 20–22 and 25). The parties generally determine the employment conditions in a collective bargaining agreement, which should be applicable when the employer concludes employment contracts with workers or to contracts that already have been concluded.

The trade union

Workers' organizations, which are established by, or under the domination of the employers or their organizations or supported by them by financial means, are not considered as labour unions, and are thus unable to conclude collective bargaining agreements according to the CBAA (article 2, paragraph 1).

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20 Pesticides Decree 2005 SB 2005 No. 21. State Decree of 3 March 2005, implementing article 13 of the Pesticides Act 1972 (GB 1972 No. 151), as amended by SB 2005 No. 18. The law defines "pesticide".

21 Collective Bargaining Agreements Act, SB 2016 No. 152.

22 Collective Bargaining Agreements Act, GB 1962 No. 106.

Parties intending to enter into a collective labour agreement, or to amend or renew it, may be assisted by the National Labour Mediation Council (article 2, paragraph 2).

Non-discrimination

The provision whereby an employer is obliged to only employ or dismiss workers based on a certain birth, gender, race, language, religion, origin, education, political conviction, religion, ethnic origin, nationality, skin colour, native or tribal origin, social background, political view, physical or mental defects, health status, age, pregnancy, marital status, sexual orientation or family responsibilities, or members of a particular association, is null and void (article 3, paragraph 1). The CBA clause which eliminates or reduces the right of employees to freedom of association and assembly is also null and void (article 3, paragraph 2).

Power to conclude CBA

A labour union has the power to conclude a collective bargaining agreement only if this power is stated explicitly in the union charter/constitution and the organization is a legal entity. The association of employees must furthermore represent a majority of employees in the company to which the collective bargaining agreement will apply (article 4, paragraph 1).[23]

Mandate and formal requirement CBA

The employer or association of employers may assign a person or group of persons for bargaining who should be mandated properly in writing (article 4, paragraph 2). A collective bargaining agreement must be concluded by authentic deed or by private deed (article 5).

Obligation to inform members

Parties to the collective bargaining agreement have the obligation to provide copies to their members after conclusion of the agreement (article 5), or after amendment or extension thereof (article 6). In case of amendment of the collective bargaining agreement and of explicit extension of the duration thereof, parties shall give a copy of the text to their members (article 6). The text should be made available within 30 days after conclusion of the agreement. The trade union has the obligation to influence the observance by the members as mentioned in article 11 of the CBAA.

Entry into force CBA

If the date, on which the collective bargaining agreement starts to have effect is not stipulated in the agreement itself, the agreement starts to have effect as of the 15th day, following that on which the agreement was concluded. (article 9, lid 1). New CBA's, renewals and changes must be registered at the CBA Registration Department of the Ministry of Labour. The obligation rests on the employer concerned. Without the registration, the CBA, including the renewal or amendment, will not come into effect (articles 9 and 25).

The provisions of the employment contract are considered to be replaced by those of the collective bargaining agreement in case of contradiction of the contract with the collective bargaining agreement by which both parties are bound (article 14, paragraph 1).

23 A similar provision is in the Freedom of Association Act article 14 (See Chapter 4).

The collective bargaining agreement also has an influence on the employment contracts already in effect at that time, from the time the collective agreement enters into force, except when the collective agreement provides otherwise (article 9, paragraph 3).

Not every deviation from the CBA in the employment contract is considered to be in contradiction with the collective agreement. If parties are meant to stipulate the CBA as a minimum provision, a deviation to the detriment of the employee will be invalid; a deviation to the advantage of the employee will remain valid, however. The more profitable contract provisions will be null and void, however, if parties are meant to settle standard rules in the CBA. In case of a contradiction between the CBA and the employment contract, the nullity of the relevant stipulations may be invoked by every party to the CBA, at any time (article 14, paragraph 3).

Obligation to promote compliance

Parties to the CBA have a "so called" motivation duty, to motivate their members to observe the terms of the agreement, to the extent good faith requires (article 10, paragraph 1). The association which is party to the collective agreement is only accountable for its members, as provided for in the agreement (article 10, paragraph 2).

Commitment of members

Article 11, paragraph 1 declares all members of the contracting associations bound by the CBA as far as this CBA is related to them. The workers who are bound, are in first instance all workers who are or become members of the relevant union, being party to the collective bargaining agreement during the existence of the agreement. After losing membership, they remain bound until the agreement is amended or extended (article 12).

Dissolution of the association which has concluded a collective bargaining agreement, does not affect the rights and obligations arising from this agreement (article 3, paragraph 1). The rights and obligations arising from the collective bargaining agreement for the employer, are transferred to his successor (article 3, paragraph 2).

The employer is obliged to observe the provisions on employment conditions, as specified in the collective bargaining agreement, when concluding employment contracts with employees who are not bound by the collective bargaining agreement, unless agreed otherwise in the collective agreement (article 16).

Lacking provisions in employment contract

The provisions of a collective bargaining agreement by which the employer and employee concerned are bound, are applicable, when an employment contract lacks stipulations on certain issues (article 15).

Term and expiration CBA

A collective bargaining agreement shall not be concluded for a term exceeding three years. Extension of the CBA is possible in such a manner, that parties are not bound for a term longer than three consecutive years from the date on which the extension has been agreed (article 20). When a CBA ends by expiration of its term or by notice given to one party (articles 21–24), the responsibilities of CBA parties and their members pertaining to the CBA come to an end. However, the case law states that existing employment conditions, which were influenced by the CBA (based on article 12, paragraph 1; and articles 15 and 16)

between the employer and organized employees, must continue to exist on the same footing, until they are amended by a further individual agreement (or a new collective agreement).

Where a collective bargaining agreement has been concluded for a definite period of time, it shall be considered renewed for the same period, but not exceeding the term of one year. The notice period shall amount to one twelfth of the period of time for which the collective bargaining agreement was concluded originally, unless stipulated otherwise in the agreement (article 21, paragraph 1). Notice of termination by one of the parties to the CBA results in cancellation of the collective bargaining agreement for all parties, unless stipulated otherwise in the collective agreement (article 23).

Notification and registration of CBA

The parties to the CBA have to notify the Minister of Labour about the conclusion, extension, amendment or termination of the CBA (article 25, paragraph 1). Paragraph 1 refers to the express extension of the CBA of the parties by agreement, not the automatic extension.

An authoritative and duly certified copy of the text of the collective bargaining agreements, their extensions and amendments must be signed and sent to the Minister of Labour within 15 days. The obligation to send the CBA rests upon the employer. The employer will receive a declaration from the Minister of Labour that the CBA is received. Without this registry, collective bargaining agreements, and their extensions or amendments, do not come into effect (article 9, paragraph 2; and article 25, paragraph 2).

Supervision

The Head of Labour Inspection and the labour inspectors supervise the observances of the CBAA (article 26).

6.8 Minimum Wage Act

The Minimum Wage Act (WML)[24] of 2019 is the successor to the first law to introduce the concept of a minimum wage in 2014 in Suriname, "to implement Articles 28 and 29 of the Constitution as part of a national social security system"[25].

Scope

Today the WML primarily applies to the relationship governed by the employment contract within the meaning of CC article 1613a. Three categories are considered equal to employees for the WML including "persons who work on the basis of the agreement to perform certain services" verrichten van enkele diensten as referred to in article 1613. In this case, the client is regarded as the employer (article 1, paragraph 2 sub a). Temporary agency workers as referred to in article 1, under g of the Private Employment Agencies Act (PEAA) (article 1, paragraph 2b) are also equated with employees. This also applies to the "domestic workers", employees as defined in the Convention on Domestic Workers, 2011 (No. 189) of the ILO (article 1, paragraph 2 §c).[26]

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24 Act of 6 September 2019, Minimum Wage Act - Wet Minimumloon (SB 2019 No. 101).

25 Act of 9 September 2014, Minimum Wage Act - Wet Minimum Uurloon (SB 2014 No. 112).

26 In this Convention 'domestic worker' is 'any person engaged in domestic work within an employment relationship'. Domestic work is 'work performed in or for a household or households'. A person who does 'domestic work' incidentally or sporadically and not as a profession, is not considered to be a 'domestic worker' in the Convention.

The minimum wage (article 2, paragraph 5) does not apply to persons who are employed by international organizations established in Suriname, unless it concerns local personnel hired on the basis of the CC. The exclusion also applies to diplomatic and consular personnel who are employed by other countries (embassies) established in Suriname on the basis of the civil service law of those countries.

The minimum wage

According to the WML, the employer is obliged to pay each employee at least the minimum wage determined by decision of the Minister of Labour. It is prohibited to enter into an employment contract for a wage that is lower than that stipulated by or pursuant to the WML (article 2, paragraphs 1 and 2).

Minimum wage fixing system

The minimum wage is determined by decision and announced by the Minister of Labour. This takes place after advice has been obtained from the National Wages Council and approval by the Council of Ministers. The advice is binding on the Minister (article 3, paragraph 1). Article 3, paragraph 5, states that if a minimum wage is determined per sector or professional group, it may never be less than the general minimum wage, so deviations should only pertain to a higher rate.

Obligations of the employer

Article 4 includes the obligations of all employers with regard to the WML:

- to pay at least the minimum wage to the employees;
- adhere to the provisions of the WML with regard to the rate(s);
- the payment of a higher minimum wage or agreed wage that applies at the time of a lower hourly rate announcement;
- provide full cooperation to the officials appointed by the Minister of Labour; and
- provide detailed proof of payment for the payment of wages to the employee including certain information.

Obligations of the employee

The employee is obliged to report payment less than the minimum wage to the Labour Inspectorate (article 5, paragraph 1). The employee and the employer will receive a written statement of the notification; the Labour Inspectorate will initiate an investigation within 14 working days of receipt of that notification and will also inform them of the measures that have been taken (article 5, paragraph 2). The employee is also obliged to provide the officials of the Ministry (such as the Labour Inspectorate) with all relevant information (article 5, paragraph 4).

Minimum wage fixing machinery: National Wages Council

Article 6 of the new WML introduces the mechanism for determining the minimum wage based on international standards. The WML establishes a National Wages Council charged with advising the Minister on the biennial setting of a general minimum wage and everything related thereto. Social and economic indicators are equally taken into account. The council can give advice on its own initiative or upon request.

The National Wages Council is not permanent as it is established every year and develops activities.

Procedures, working methods and indicators for determining the minimum wage have already been put into effect by the National Wages Council Decree.[27] The composition of the National Wages Council is tripartite and supplemented by authorities such as the Planning Bureau of Suriname.

Supervision and investigation

The Head of the Labour Inspectorate, the inspectors of the Labour Inspectorate and other officials appointed by the Minister of Labour are charged with supervising and enforcing the provisions by or pursuant to this Act.

Administrative and criminal sanctions

It is noteworthy that the WML has introduced unique administrative sanctions for the employment legislation, the "order subject to penalty" and the "administrative fine".

6.9 Freedom of Associations Act

The Freedom of Association Act[28] (WVV) is a clustering of freedom of association provisions in Decrees and a further implementation of international labour standards (ILO Conventions Nos. 87, 98 and 125) and segments of the CARICOM Model Harmonization Act regarding Registration, Status and Recognition of Trade Unions and Employers' Organizations. Conclusions of the ILO Committee of Experts on the implementation of ILO Conventions Nos. 87, 98 and 125 and statements of the Committee on the Freedom of Association (CFA) have been taken into account in formulating the WVV.

Freedom of association – basic workers' rights

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization (article 2, paragraph 1). Article 2, paragraph 2 states in detail certain association rights and freedoms belonging to each employee, without prior approval such as establishing an association, participating, representing or assisting workers.

Constitution of associations

According to Article 3 of the WVV, workers' and employers' organizations have basic rights to draw up their constitutions and rules, to elect their representatives[29], to organize their administration and activities and to formulate their programmes.

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27 SB 2020 No. 200.

28 Freedom of Association Act - Wet Vrijheid van Vakvereniging (SB 2016 No. 151).

29 The Constitution stipulates that trade unions should be governed by the principles of democratic organization and governance based on regular elections of the board on the basis of secret ballot (article 30, paragraph 3).

Protection of workers

Employers, employers' organizations and their representatives are prohibited from taking discriminatory measures including dismissal against employees, board members, shop stewards or other general or special representatives of a trade union (article 4, paragraph 1). This provision also applies to federations and confederations. The prohibition in paragraph 1 applies if measures have been taken against a person because of their quality as workers' representative or the related activities, their trade union membership or their participation in lawful trade union, federation or confederation activities, under the condition that these actions are directly linked to labour relations or they themselves have acted in accordance with the applicable legal requirements, collective agreements or other applicable agreements (article 4, paragraph 2).

Article 4, paragraph 3 clearly prohibits employers from setting anti-union conditions with respect to any employee or any person seeking employment. Article 4, paragraph 4 stipulates that any contractual term which purports to exert any restraint in exercising any right conferred or recognized under the law or a collective bargaining agreement shall be void.

It is forbidden for workers and employers and their organizations to undertake acts of interference in the establishment, functioning and decision-making, representative and organizational matters of the mutual organizations (article 5, paragraph 1). Paragraph 2 mentions one form of interference, the establishment of puppet unions.

According to the WVV, workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority (article 6).

Every use of any threat or intimidation, to compel or coerce any other person to join or not to join any trade union, federation, or confederation, is prohibited (article 8).

No immunity against dismissal

Nothing in the law shall be interpreted as preventing an employer from dismissing or otherwise disciplining an employee for a valid reason, in accordance with national law (article 5, paragraph 5).

Basic employers' rights

Employers have the same right to freedom of association as employees (article 7). These rights relate to the establishment of an employers' organization, membership, participation in lawful activities, independence, and the rendering of assistance to employers.

Non-discrimination

Any person who meets the requirements of the constitution of the workers' organization has the right to membership, irrespective of the duration or term of their employment relationship (article 9, paragraph 1). A member has the right to membership as long as he/she complies with the rules of the organization (paragraph 2). The law further states (article 9, paragraph 3) that employers' organizations and trade unions are prohibited from discrimination on the grounds of race, gender, religion, ethnic origin, nationality, colour of skin, indigenous or tribal origin, social background, political conception, physical or mental disability, health status, age, pregnancy, marital status, sexual orientation or family responsibilities.

Free national, regional and international affiliation

Article 10, paragraph 1 is extracted from article 9 of the CMW. Paragraph 2 further elaborates that it is prohibited to make obligatory, for workers' or employers' organizations, that they affiliate themselves with one or more national, regional or international organization(s) and not with others or to hinder such affiliations.

The right to strike

Article 11. paragraph 1 stipulates that the right to strike is recognized subject to the limitations arising from the law. This provision is consistent with article 33 of the Constitution. A strike is defined in the WVV as the collective abandonment of work by employees in order to induce their employer or third parties to perform a certain lawful act or omission and with the intention of resuming the work as soon as the intended objectives have been achieved (article 1h). The WVV stipulates that the right to strike may be restricted by legislation for civil servants, the armed forces, police officers and the essential services (article 11, paragraph 2). It also states that the limitation of the right to strike is possible under the strict condition of the compensatory guarantee that rapid, effective and impartial procedures to settle disputes established by law are put in place (article 11, paragraph 3). The essential services should be determined only by law (article 11, paragraph 4).

Article 12 of the WVV obliges the workers' union to give prior written notice to the employer before calling a strike and on the decision to suspend the strike (article 12).

The principle of "no work no pay" can be applied in case of a strike and is based on article 1614b of the CC (BW), no wages are due for the time, during which the employee has not performed the agreed labour.

Facilities

According to article 12, paragraph 1 of the WVV, employers are obliged to afford such facilities in the undertaking to workers' representatives as may be appropriate, in order to enable them to carry out their functions promptly and efficiently. Account should be taken in this regard of the characteristics of the national industrial relations system and the needs, size and capabilities of the undertaking concerned (article 13, paragraph 2). The granting of facilities shall not impair the efficient operation of the undertaking concerned (article 13, paragraph 3). The employer is obligated to be engaged in collective bargaining with the trade unions about the facilities to be granted, when the union wishes to do so, according to article 13, paragraph 4 of the WVV.

Obligation to bargain collectively

Collective bargaining is one of the most essential functions of a trade union. The employer is obliged to negotiate with the recognized/authorized labour union regarding the collective bargaining agreement (article 14). The authorized labour union is the union:

a. which is a corporate person;

b. of which the constitution explicitly mentions the authority to conclude collective bargaining agreements; and

c. which is the representative union of the workers in the concerned enterprise.

Referendum

The articles 15–18 are based on articles 2–5 of the repealed Recognition of Labour Unions Decree. These provisions prescribe the referendum procedures when the representation of unions is unclear and when more unions claim the right to bargain collectively.

Supervision and monitoring

The Head of the Labour Inspection is entrusted with the task to supervise the observance of this law (article 20). Prosecution tasks are entrusted to the Head of Labour Inspection, labour inspectors and other officials with special assignments from the Minister of Labour.

6.10 The Industrial Accidents Act

The Industrial Accidents Act[30] (SOR) aims to indemnify the worker against financial consequences of industrial accidents. These are accidents related to or in the course of employment including fatal injuries (article 4). The employer is obliged to pay compensation except for workers engaged with the main activity in agriculture, horticulture, forestry and cattle breeding (article 5). In order to fulfill this obligation, employers have to take out industrial injury insurance (article 10).

If the employee is not insured, the compensation benefits, medical and other costs are not to be covered by an insurance company as the employer is liable for their employee. The employee should be insured during the whole period of employment until termination of the employment contract. The right to compensation begins on the 3rd day after the injury, until a medical statement of recovery is issued (article 6, paragraph 1d; and article 20). The cash benefit covers only working days, beginning on the day after the injury (article 6, paragraph 1d).

The worker is not entitled to compensation if the injury is caused intentionally/self-inflicted or by use of alcohol or drugs, provided that the employer was not aware of these circumstances (article 4, paragraph 4).

Compensation for injury consists of:

- medical treatment and care (article 6, paragraphs 1a and10a, b and d);
- medicine and bandages (article 6, paragraph 1a);
- artificial limbs and other equipment (article 6, paragraph 10e);
- transport (article 6, paragraph 1a); and
- cash benefit being eighty per cent (totally disabled whether permanently or not) or a portion of eighty per cent (partially disabled) of the daily pay (article 6, paragraph 2).

A maximum of SRD 20 is applicable for the calculation of the daily wage for determination of the benefit, as was introduced at the last amendment of the Act in 2007[31]. The daily wage in excess to SRD 20 is disregarded in the calculation.

30 Act of 10 September 1947 (GB 1947 No. 145) as lastly amended by SB 2007 No. 26.

31 SB 2007 No. 26 .

The medical expert engaged determines the degree of invalidity, and also issues the medical statement of recovery (article 20). Appeal against the determination of the degree of invalidity is possible at the Industrial Injuries Committee, which gives a final decision (SOR article 20, paragraph 2).

In case of fatal injury, the compensation consists of:

- burial or cremation expenses with a minimum of SRD 4000 (article 6, paragraph 1b); and
- cash benefit for dependents (spouse, children) not exceeding fifty per cent of the daily pay. The children are to remain entitled until their 16th birthday, while the spouse is entitled until they remarry (article 6, paragraph 3).

The cash benefits are periodic payments related to the remuneration payment of the worker. The beneficiaries (worker or dependents) or the insurance company can request the Industrial Injuries Committee to convert the regular payments into a lump sum benefit (article 6, paragraph 6).

Besides the obligation to take out industrial injury insurance, the employer has the following responsibilities under the SOR:

- provide for medical assistance immediately, taking the circumstances of the injury into account (article 11, paragraph 1);
- official notification of accidents (article 11, paragraph 2);
- keep a register of industrial injuries as prescribed (article 16);
- give information to controlling officials of labour inspection or other public officials (article 13); and
- notify the Permanent Secretary of the start-up or cessation of business or change in operational procedures (article 22).

Responsibilities/obligations of the employee:

- notify the employer of his/her injury (article 11, paragraph 1);
- allow medical check-up and treatment (article 6, paragraph 11);
- avoid unilateral change in medical treatment (article 6, paragraph 11);
- avoid actions which could impair recovery (article 6, paragraph 12); and
- cooperate with inspection officials (article 13).

These same rules also apply in relation to occupational diseases (article 24) which may occur during an employment relationship or within a certain period after termination of that employment relationship. This specified period is declared by the President by Decree. The SOR enumerates 21 occupational diseases with the corresponding trades or industries or processes (article 25). Pursuant to the SOR (article 24, paragraphs 2 and 3), periods are specified by Decree (GB 1947, No. 205) for eight occupational diseases. The Labour Inspectorate is entrusted with the supervision of the provisions of the SOR. The police also have the power to investigate (article 12 and 36). The penalties for non-observance of the SOR are imposition of fines, imprisonment or discontinuation of business (articles 31–35).

6.11 Maternity Protection Act

In 2019, the ground-breaking Maternity Protection Act, Wet Arbeidsbescherming Gezin (WAG), was passed and put into effect in Suriname.[32] The WAG is partly implementing article 27, paragraph 1, 29 sub b and article 35, paragraphs 5 and 6 of the Constitution of the Republic of Suriname. Paid maternity leave for civil servants is documented in article 45 of the Personnel Act (PW): paragraph 1 under a. and paragraph 4. Pursuant to Article 45 paragraph 4, the 1973 Exemption Decree Vrijstellingsbesluit further establishes the maternity leave. An amendment to this decree in 1989 and 2003 further improved the position of the expectant civil servant.

The WAG does not apply to civil servants, but there is an 'assignment' to the Minister charged with the legal status and rights of civil servants (Home Affairs) to raise the standards of the Exemption Decree to the level of the WAG, where necessary (article 19, paragraph 3).

Pregnancy and maternity leave

By law, the female employee is entitled to between four and six weeks of maternity leave before the expected date of delivery, and between ten and 12 weeks of maternity leave after the actual day of delivery. The maternity leave can be extended to a maximum of 24 weeks by State decree (article 3, paragraphs 1 and 2). Pregnancy leave and maternity leave together do not last longer than 16 weeks. For women who give birth to three or more children, a maximum maternity leave of 24 weeks applies (article 3, paragraph 3).

The female employee is obliged to take pregnancy leave and maternity leave (article 3, paragraph 4). The employee determines the commencement date of the maternity leave on the basis of a probable date of childbirth determined by a treating general practitioner, midwife or medical specialist or their replacement (article 5, paragraph 1).

In the event of a miscarriage or a stillborn child or if a child dies shortly after birth, the mother retains the right to maternity leave of six weeks after the time of loss. In the case of an intended adoption of a child under 18 months, the adoptive parent is entitled to six weeks of paid leave from the moment the child is legally permitted to actually reside with them.

Paternity leave

The father whose partner gave birth is entitled to paid leave on the day of his partner's delivery in accordance with the CC (article 1614c, paragraph 7). This right is repeated in article 4 of the WAG. In addition to the one day already mentioned in the CC, the father is entitled to seven days of paternity leave. The father is entitled but also obliged to take paternity leave (article 4, paragraph 2).

In the event of a miscarriage, the father is also entitled to one day of paid leave (article 4, paragraph 6). In the case of an intended adoption of a child under 18 months, the adoptive parent is entitled to at least five working days of paid paternity leave within the first four months from the commencement of the legally permitted de facto residence of the child in the household of the father (article 4, paragraph 7).

If the mother dies during or after childbirth, the father or a family member in the first or second degree of the father or mother is eligible for special leave equal to the maternity leave or the remaining part thereof (article 4, paragraph 3). The law provides that the father or a first-degree or second-degree relative of the father or mother is also eligible for special leave equal to the maternity leave or the

32 Act of 10 June 2019 - Wet Arbeidsbescherming Gezin (SB 2019 No. 64).

remainder thereof, if the mother is on maternity leave and is unable to take care of the child born due to illness or hospitalization (article 4, paragraph 4).

Vacation

The employer is prohibited in the WAG from reducing the entitlement to paid holiday leave pursuant to the Holiday Act, on the basis of enjoyed or future pregnancy leave and maternity leave.

Reporting obligation of mother and father

The female employee is obliged to report the pregnancy to the employer no later than the end of the 20 weeks. She also states the probable date of delivery, which must be evidenced by a written statement from a general medical practitioner or their replacement, midwife or medical specialist (article 6, paragraph 1).

Providing incorrect information to the employer (in order to take unjustified leave) is punishable (article 6, paragraph 5).

Dismissal and employment protection

The WAG also regulates the employment protection of the parents. Article 7 prohibits the employer from terminating the employment contract with an employee during pregnancy and after childbirth for other than urgent reasons. The prohibition does not apply if the formal dismissal procedure had already started before the date of notification of the pregnancy (article 7, paragraph 1). A dismissal prohibition also applies after childbirth, during maternity leave and after resumption of work, or following a period of incapacity to perform work. This concerns the termination due to the delivery or the pregnancy preceding it, and which follows on from the maternity leave. The prohibition does not apply to dismissal for urgent reasons (article 7, paragraph 2). An employee who has taken pregnancy and maternity leave has the right to return to work, in the same or an equivalent position, while retaining the same remuneration and employment conditions (article 7, paragraph 3). Violation of the prohibition on maternity or paternity related dismissal is legally void (article 7, paragraph 5).

Working conditions

The WAG prohibits the employer from having the employee perform night work during the pregnancy and for at least four weeks immediately following the maternity leave, if the employee submits a medical certificate to that effect from the physician (article 8, paragraph 2). The employer is not allowed to demand standing work from the pregnant employee if the employee submits a medical certificate from the physician showing that she is not allowed to perform standing work (article 8, paragraph 3). On the other hand, the female employee is prohibited from performing paid work in any form during pregnancy and maternity leave and the father during paternity leave (article 8, paragraph 6).

Parental Leave Benefit Fund

All payments arising from the exemption from work for working mothers, fathers and relatives must be made through payments by the Parental Leave Benefit Fund (FVO) as established by this law (article 10). The employer is obliged to immediately pay all benefits that he/she receives from the FVO (fully agreed wage/hourly wages) to the entitled employee (article 9 and article 14, paragraph 2).

The FVO is responsible for ensuring continued payment of wages in connection with the granting of pregnancy, maternity and paternity leave to employees (article 11). Every employee and employer are obliged (on behalf of the FVO) to pay a contribution equal to one per cent of the employee's gross

salary. The employee's contribution is a maximum of fifty per cent and the employer's contribution is a minimum of fifty per cent of the premium contribution (article 12).

The procedures with regard to the FVO are regulated in detail in the Maternity Protection Decree (SB 2020, No. 41).

The Head of the Labour Inspectorate and the labour inspectors and officials appointed by the Minister of Labour are responsible for supervising compliance with the WAG.

6.12 General Pension Act

The pension rights based on the General Pension Act 2014 (WAP) are awarded in addition to the monthly AOV general old age benefit.[33] The purpose of the WAP[34], which came into effect on 9 December 2014, is to introduce a mandatory general pension scheme, which entitles the holder to a pension upon reaching retirement age (article 2). The pension rights are accrued from the entry into force of the law and have no retroactive effect to a time prior to the date of entry into force (article 2, paragraph 2). Introduction of the WAP means that the accrual of pension rights will take effect from that date, and entitlement to pension rights can only be made by employees who accrue these rights under this scheme.

Four types of pensions

The WAP list four types of pensions (article 7):

1. general pension;
2. partner's pension (70 per cent of the general pension);
3. orphan's pension (in total 70 per cent of the general pension); and
4. invalidity pension (equal to the general pension.

The WAP now sets a retirement age in the private sector, which is 60 years.

The right to a pension arises when the participants have paid contributions for at least five years (article 3, paragraph 1). The WAP has a minimum pension payment of SRD 300 per month (article 7, paragraph 8). The pension is only paid when the pensionable age is attained (article 4, paragraph 1).

The law stipulates how the amount of the general pension is calculated (article 7). All residents who work in Suriname must pay a pension premium (article 8, paragraph 3).

When the law came into effect, the premium amounted to three per cent. As of 1 January 2016, the premium was increased annually by ½ of one per cent until the maximum of 28 per cent is reached (article 8, paragraphs 1 and 2). In the event of employment, the employer pays a minimum of 50 per cent of the premium and the employee a maximum of 50 per cent (article 8, paragraph 7).

The general pensions are managed by the General Pension Fund, established when the WAP came into effect.

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33 Benefit to persons older than 60 - Algemene Oudedagsvoorziening (AOV).

34 Act of 9 September 2014 (SB 2014 No. 113).

Disability pension and incapacity for work

It is possible that an employee becomes permanently incapacitated due to an accident or illness. Under this law he/she is entitled to invalidity pension. For industrial accidents and occupational diseases, there is a special SOR insurance under the Industrial Accidents Act. A person who is permanently incapacitated due to illnesses or disabilities, and can provide medical proof of their condition after an examination, may be entitled to a disability pension. The right to invalidity pension lapses when the right to general pension is acquired (article 3, paragraphs 4 and 5).

Obligations of the employer in the pension scheme

Article 10, paragraph 1 shows the main obligations of the employer with regard to the pension scheme related to establishment of a pension scheme for his employees. This includes a scheme for the benefit of the dependents (widow's pension and orphan's pension) and disability of the employee (disability pension) (article 10, paragraph 3). The employer is obliged to make agreements with the employee about the withholding of the employee's share of the premium from the wages and to provide him/her with proof of withholding. Every employer is also obliged to pay pension contributions on time and to provide a copy of this to the employee (article 10, paragraphs 4 and 5). Employment information must be submitted to the Implementing Body (article 10, paragraphs 8 and 9).

Obligations of the employee with regard to pension scheme

Every employee is obliged to check whether the employer complies with his/her obligation to withhold and pay the premium to the fund (article 11, paragraph 1) and to give notice to the Implementing Body in case of negligence by the employer (article 11, paragraph 2). The employee is also obliged, just like the employer, to maintain a proper and accessible pension record (article 11, paragraph 3).

Self-employed persons

A self-employed person actually works for himself/herself and is obliged to enter into a pension scheme for himself/herself and to report this in writing to the Implementing Body (article 12, paragraph 1). Insofar as applicable, the provisions for the employer and the employee also apply to the self-employed person (article 12, paragraph 2).

Supervision

The Pension Council is responsible for supervising compliance with and enforcement of the WAP (article 14, paragraph 1), enforcement (articles 19 and 20), as an appeal body (article 24) and as an advisory body to the Government (article 14, paragraph 3).

Sanctions

Those who do not comply with the pension obligation risk being fined (articles 19 and 20).

6.13 National Basic Care Act

The National Basic Care Act (WNB) came into effect on 9 October 2014. The law is intended to introduce basic health insurance for all residents in Suriname, also for foreigners living in Suriname. [35]The WNB

35 Act of 9 September 2014 (SB 2014 No. 114).

obliges every employer to take out basic health insurance for his/her employee. In this Act, in addition to the children from the marriage and the married partners, account is also taken of long-term unmarried partners (see article 1, §e) and the children who belong to their household. Not only the married partner is co-insured, but also those with whom the employee maintains a long-term joint household (see article 1, sub j).

The employer must pay a minimum of 50 per cent of the premium and the employee a maximum of 50 per cent.

With regard to determining the amount of the premium to be paid, premium categories have been determined on the basis of age. The employer has the duty to ensure full payment of contributions. He/she must therefore make agreements with the employee about the withholding of the employee's share of the contribution. Upon termination of employment, the employer must notify the health insurer of this within one month, stating the date from which he/she no longer pays premiums for the former employee.

The employee may not pay more than 50 per cent of the premium as every employer is obliged to take out basic health insurance for his/her employee and to pay at least 50 per cent of their premium.

The employee can also make agreements with their employer about a possibly higher contribution from the employer.

The national basic health insurance is a compulsory basic insurance for every resident (article 4, paragraph 1). Everyone owes a premium (article 7) and everyone has to pay for basic health insurance. The law imposes an acceptance obligation on the health insurer (article 11) therefore, no one should be refused by the health insurance companies. The WNB entitles the worker to basic care facilities (article 6) and the law has provided that there is no discrimination and that everyone has equal rights to basic health care. The WNB provides financing options (article 5) and a fund is provided that offers the possibility of financing additional healthcare costs.

Appendix I to the WNB lists the services to which the insured is entitled. These include pregnancy and childbirth. With regard to the latter, this concerns prenatal check-ups and delivery, (outpatient) clinical delivery and reimbursement for consultations at a health clinic.

The premium

The premium is the amount that must be paid monthly for the basic health insurance. Everyone is obliged to pay a premium and the law has provided for a maximum premium that must be paid per month. The monthly premium is divided into four age categories. Children from under one year to 16 years old and people over 60 with Surinamese nationality are exempt from paying premium, their premium is paid by the Government.

Every health insurer is obliged to accept every resident who registers for basic health insurance (article 11, paragraph 1). The health insurer is obliged to immediately inform the insured person if no premium is paid and to report this to the employer and the Implementing Body (article 11).

Obligations of the employer

Every employer is obliged to take out basic health insurance for his/her employee, to pay at least 50 per cent of the premium and to make the balance the responsibility of the employee (article 7, paragraph 6), and to make agreements about the withholding of the premium (article 8, paragraph 1). Upon

termination of the employment, the employer must notify the health insurer of this within one month, stating the date from which he/she no longer pays premiums for the employee (article 8, paragraph 3).

Obligations of the employee with basic health insurance

Every employee is obliged to check whether the employer complies with his/her obligation to withhold and pay the premium (article 9, paragraph 1). If an employee establishes that the employer has not withheld and paid the premium, he/she must immediately report this to the health insurer and the Implementing Body Uitvoeringsorgaan (article 9, paragraph 3).

Supervision of compliance and enforcement of the WNB

The Care Council Zorgraad is charged with supervision and enforcement (article 13). The Care Council is an appeal body (article 20) as well as an advisory body to the Government (article 13, paragraph 2). Residents who do not comply with the mandatory basic health insurance risk being fined (articles 17 and 18). Persons who disagree with the imposed penalty have the opportunity to object and to appeal to the Care Council (article 20).

6.14 Occupational Safety and Health Act

The Occupational Safety and Health Act (OSHA) is a framework act on safety and hygiene in enterprises. Detailed rules are or should be laid down in subsidiary legislation. At present there are nine Safety Regulations pursuant to the OSHA.

The OSHA and the nine Safety Regulations aim to decrease the chances of employment injuries and occupational diseases. The paragraphs list some provisions in the OSHA and the subjects to be laid down in Safety Regulations.

Some general obligations of the employer in the OSHA are:

- compliance of company procedures with rules in the OSHA and the nine Safety Regulations (article 3, paragraph 2);
- permission from the Permanent Secretary for the operation of some machinery and equipment (article 3, paragraph 1);
- observance of the conditions attached to the permission (article 3, paragraph 4);
- cooperation with inspection officials on the inspection of relevant machinery and equipment (article 3, paragraph 5);
- notices in Dutch stating the Safety Regulations applicable to the enterprise (article 4, paragraph 1) and notice to the (new) employees (article 4, paragraph 2);
- cooperation with labour/inspection officials supervising the observance of the OSHA and the Safety Regulations (article 6); and
- notification to the Permanent Secretary of the starting up or closure of a business, the engagement of some equipment and personnel or changes therein (article 7).

Obligations of the employee pursuant to the OSHA are to:

- observe the Safety Regulations and other safety measures taken by the employer (article 3, paragraph 4); and
- cooperate with labour/inspection officials supervising the observance of the OSHA and the Safety Regulations (article 6).

Penalties in the event of breach of the OSHA and the Safety Regulations are the imposition of fines or imprisonment (article 8).

6.15 The Safety Regulations

Safety Regulation 1

The aim of this Regulation is to prevent or diminish the risk of injuries in all enterprises. This comprehensive regulation prescribes technical procedures and measures when power-driven machines are in operation (articles 1–10). Provisions are made for signalling arrangements, protection and maintenance. The rules regarding steam and vapor installations (articles 11 and 12) are related to protective devices and testing measures. The provisions on lifting gear and appliances and moving equipment (articles 13–21) are related to the marking of maximum safe working load, overload and minimum age (18 years). Chapter IV of Safety Regulation 1 (articles 22–30) contains provisions on safety regarding buildings, scaffolds, floors, platforms, gangways and stairways. The provisions relate to prevention of collapse or accidental displacement, overload, maintenance, assembly alteration and dismantling, and sufficient lighting.

The Regulation also prescribes requirements regarding explosive, chemical and other unhealthy substances (articles 31–36). These rules provide for measures on danger symbols/signs, spilling, splashing, knocking over or emanation of substances. The employer has to take measures against the risks of falling or flying objects (article 37). The piling up of material and digging activities should be carried out with utmost care (article 38). The same applies for the engagement of cables, chains, halters and other devices (article 39). The employer is responsible for providing protective devices and storage rooms whether on water, land or in the air and to provide supervision when these are in use (article 40, paragraphs 1 and 3). The employee is responsible for using these devices (article 40, paragraph 2). The Labour Inspectorate and the Geological Mining Services are entrusted with the supervision of the above legislation (article 43).

Safety Regulation 2

This Regulation aims to promote hygiene in all enterprises. Some requirements for promoting hygiene such as toilets, are related to cleaning, drainage, and washstands; and for enterprises with more than five workers, showers are required.

Safety Regulation 3

Safety Regulation 3 prescribes some measures regarding first aid. Enterprises with moving equipment, explosive gasses or unhealthy substances, high temperatures or other risks to injury, should have easily accessible and well-maintained means for first aid (article 1). Where the work involves risk of drowning, efficient means for rescue should be readily available (article 2). An enterprise where at least 50 persons are actually present on the work floor at the same time should at least have one person designated to address first aid requirements. In enterprises with moving equipment, explosive gases or unhealthy substances, the minimum is 30 persons (article 5). These persons only should administer first aid, except under special circumstances (article 6).

Safety Regulation 4

Safety Regulation 4 endeavours to prevent the production and the spreading of hazardous materials, gas or dust and to regulate their removal. It also promotes hygiene in all enterprises. The obligations for the employer are to:

- avoid the use of white lead, sulphate of lead and all products containing these pigments in the internal painting of buildings or ships (article 1, paragraph 1). Authorization can be granted by the Permanent Secretary for use in railway stations, and industrial establishments (article 2);
- store or transport these substances after being mixed in oil or other fluid thickener in a certain way (article 3);
- take measures on the prevention of illnesses caused by toxic paints, by providing for protective clothing, masks, helmets, warning signs and the like (article 4);
- prevent the generating and spreading of substances caused by the removal of paints and take measures for the escape of dust and other irritants (article 5);
- provide for washing facilities, soap, towels and other necessities (article 6); and
- provide for training of workers (article 7).

It is prohibited to eat, drink and sleep in closed workspaces where paints containing lead or filler are used or being removed (article 4, paragraph d).

Safety Regulation 5

The aim of this regulation is to protect workers against hazards arising out of the weight of loads to be transported by sea or inland waterway. According to the Regulation, the sender of any package or object of 1,000 kg or more gross weight shall mark its gross weight plainly and durably on the outside before loading on a ship or vessel (article 1). The weight should also be stated in the freight documents (article 2, paragraph 2).

Safety Regulation 6

Safety Regulation 6 prevents the occurrence of pneumoconiosis or other diseases caused by dust. This technical and detailed Regulation contains some prohibitory provisions regarding the:

- cleaning of objects with certain substances (article 3) with exceptions to be made by the I-G or ultimately the Minister of Labour as the appellate authority (articles 5 and 6);
- use, processing and sale of crocidolite and other substances (articles 7 and 12) with exceptions to be made (not for crocidolite) by the I-G or the Minister of labour as the appellate authority (article 14); and
- use of asbestos (articles 8 and 9) with exceptions to be made by the I-G or the Minister of Labour as the appellate authority (article 11).

This Safety Regulation further contains some provisions on the release or generation of dust, which can lead to pneumoconiosis or other diseases (articles 15–17).

Safety Regulation 7

The aim of this Regulation is to promote safe and comfortable working conditions. Safety Regulation 7 contains detailed guidelines on a wide range of subjects regarding all places where work takes place. The subjects of the guidelines are:

- preference of natural light on work floors, toilets, stairways and gangways so far as applicable (articles 3–8);
- artificial light (articles 9–11) and measures for lighting in case of emergency, in enterprises having at least 100 persons on the actual work floor at one time (article 12);
- good conditions of temperature (articles 13–19), ventilation and fresh air (article 20);
- noise and vibration (articles 21–27); and
- excessively strenuous labour, hazardous to an employee's physical and mental well-being (articles 28 –32).

Safety Regulation 8

Safety Regulation 8 aims to protect workers against ionizing radiations. This detailed technical regulation contains provisions relating to:

- restriction of the exposure of workers to ionizing radiations at the lowest practicable level (articles 2 and 4, paragraph 1);
- fixed maximum permissible doses and amounts of radioactive substances (articles 2 and 4, paragraph 2);
- minimum age (18 years) and pregnancy/maternity situations (article 5);
- prevention of exposure to ionizing radiations and avoiding unnecessary exposure (articles 6–8 and 20);
- technical requirements for the operation of x-ray apparatus (articles 9–12);
- the obligation of workers to notify the employer in the event that a radioactive source has been lost, mislaid or stolen, and for the employer to have an inquiry (article 19);
- safety provisions regarding buildings (articles 13 and 14);
- (automatic) visual warning signs of hazards (articles 15 and 28) and notification (article 33);
- medical examination and measurements of exposure to radioactive substance (articles 16, 22, 30 and 32);
- establishment of special rooms (article 24) with specific technical requirements (articles 35–39);
- measures such as decontamination, prevention of the spread of contamination, storage of clothing, consumption and washing facilities (articles 25 and 26);

- personal protective equipment and devices (article 27);
- short-time working and recreation (article 31); and
- obligation of the worker to observe rules and regulations (article 40).

The I-G is entitled to give instructions on some provisions, while the Minister of Labour can make exceptions regarding some (technical) requirements (articles 41 and 42).

Safety Regulation 9

Safety Regulation 9 prevents hazardous risks to health by inhalation or exposure to noxious or irritating gases and fumes. The provisions regulate the elimination, release, generating or spreading of noxious or irritating gases and fumes in the working environment. Some prescribed measures relate to workspaces, clothing, accommodation and changing rooms, rest rooms, mess rooms, ventilation, fresh air, maximum permissible amounts of gas or fumes and preventive measures.

6.16 Tobacco Act

The Tobacco Act (TA) was passed in 2013 and also covers the workplace.[36] The law was passed in the context of Suriname's ratification to the World Health Organization (WHO) Framework Convention on Tobacco Control.

According to article 3 paragraph 1 of the TA, everyone is prohibited inter alia from smoking at the workplace. According to article 1, paragraph 1 the workplace is any space used by a person or persons during work, whether self-employed or otherwise, regardless of whether payment, financial or otherwise, is received for it. The smoking ban applies in any case to a number of publicly accessible areas, work areas and public transport explicitly referred to in article 3, paragraph 2 (a.–p.):

a. public and private workspaces, offices and office buildings;

b. Government premises, including all Government buildings and offices used to carry out work or activities, directly or indirectly, in connection with the functioning of Government;

c. cafes, discos, cafeterias, clubs, taverns, bars, lounges and restaurants and any other areas that are part of, or operate in conjunction with, or in connection with the facility;

d. buildings and spaces of educational institutions of all levels and childcare institutions and the associated areas;

e. retirement homes and all other areas that are part of, or function in conjunction with, or in connection with the facility;

f. business premises, including all public and private facilities used for any type of industrial or commercial activity or service;

g. factories, storage areas and warehouses;

h. health care institutions, health care facilities, clinics and hospitals and associated areas;

36 Act of 20 February 2013 (SB 2013 No. 39).

i. hotels, motels, guesthouses and all other accommodation facilities;

j. public transport terminals, including sea, river and airports, train and bus stations and waiting areas;

k. planes, helicopters, buses, trains, taxis, boats and all other means of public transport;

l. retail establishments including shops, markets, market squares and shopping malls;

m. publicly managed spaces leased for events;

n. cinemas, theatres, concert halls, casinos and any other places used for indoor public entertainment;

o. museums, libraries, community centres and recreation centres and halls; and

p. sports, educational and recreation areas.

Article 4 imposes an obligation on what is known in Surinamese labour law as the 'head of the company'. The person who has the actual leadership or policy-making responsibility for the management of the publicly accessible space referred to in the TA must take such measures that the space is smoke-free. Employers are obliged to take such measures that employees can carry out their work in a smoke-free workspace (article 4, paragraph 2). Measures include, according to article 4, paragraph 4:

a. ensuring the smoking ban is complied with;

b. placing indications with regard to the smoking ban in areas where a smoking ban applies, in such places where the indication is visible to the public; and

c. ensuring there are no ashtrays available or placed.

The Permanent Secretary of Public Health is charged with the supervision of compliance with the provisions by or pursuant to the TA (article 20). Any violation of the law will be subject to detention or a fine.

6.17 The Holidays Act

The purpose of the Holidays Act[37] (HA) is to guarantee annual holidays with pay for every worker engaged in an employment contract. Every employee is entitled to an annual holiday with pay (articles 2 and 7, paragraph 2). Agreements to relinquish the right to the annual holiday with pay are null and void (article 3, paragraph 1; and article 4). The HA prohibits the employee to be engaged in gainful activity during the holidays (article 3, paragraph 2). The minimum length of the holiday for one uninterrupted calendar year of service is 12 days for the first year and an additional two days for the subsequent three years, up to a minimum of 18 days after the fourth year. In the event of service less than one calendar year, in the first year of service the employee is entitled to one day for every full month of service (article 7). The HA prescribes the way the holiday should be taken (article 8). The employer, in consultation with the employee, determines the time at which the holiday is to be taken, unless otherwise fixed by collective bargaining agreements (article 11). The employee who is entitled to a holiday, receives over the relevant days, at least an additional 50 per cent of the daily pay. The manner of calculation is also determined by the HA (article 10). The employee shall receive, upon termination of employment, a holiday with pay

37 Act of 24 November 1975 (SB 1975 No. 164c).

proportionate to the length of service in that year for which he has not received such a holiday, provided that the worker is not dismissed on urgent grounds/serious misconduct (article 12).

Employers are obliged to keep a holiday register with certain information (article 14). Penalties on non-compliance with the HA are imprisonment and fine. The Labour Inspectorate supervises the observance of the regulation of the HA.

6.18 The Labour Mediation Act

The Labour Mediation Act of 1946[38] (LMA) is the key standard for collective labour dispute settlement in Suriname.

The LMA establishes within labour administration, the National Labour Mediation Council (BR) to deal with the settlement of labour disputes. The BR has the task to promote the peaceful settlement and the prevention of labour disputes, which means any dispute between workers and one or more employers regarding labour matters.

The BR can exercise the following functions:

- mediation/conciliation;
- arbitration (arbitration tribunal);
- assistance to arbitration tribunals of the parties concerned; and
- advisory services.

The larger part of the LMA contains provisions regarding the four different means of intervention of the BR in labour disputes, the procedures and the legal consequences and outcome of the conciliation/mediation, arbitration or advisory services, and the code of conduct for the concerned parties.

Apart from those provisions, the LMA places obligations on witnesses, experts and relevant parties to appear before the BR (article 51) and on chairpersons, members and secretaries of the BR and experts to observe confidentiality (article 52). Penalties on breach of these obligations are fines, imprisonment and eventually, removal from office (article 51 and 52).

The BR is not entitled to intervene in disputes between persons employed by the Government or a public corporation body, except when the employment is based on an employment contract (article 54).

6.19 The Labour Exchange Act

The Labour Exchange Act 2017[39] (LEA) is the modern version of the Labour Exchange Act of 1965. The LEA gives a new dimension to the task of the Government to bring jobseekers and employers together and to improve employment. According to the State Decree on the Terms of References of Departments

38 Act of 26 September 1946 (GB 1946 No. 104) as amended by GB 1948 No. 8.

39 Labour Exchange Act 2017 (SB 2017 No. 67).

of Government[40], the Ministry of Labour is entrusted with the task to supervise the legal regulations on employment placement (labour exchange) and to formulate the labour market policy and increase employment. Historically the Government has played an active role in the field of labour exchange and the tackling of unemployment. The Government had, however, no monopoly on labour exchange, because private institutions had the opportunity to render their services to jobseekers under certain conditions.

The LEA reshapes the legal basis of labour exchange fundamentally with the introduction of regulated freedom for intermediating institutions, ethical codes for intermediaries and employers and rights for jobseekers. The ratification on 12 April 2006 of the ILO Private Employment Agencies Convention (No. 181) and the guidelines in the ILO Private Employment Agencies Recommendation (No. 188) required the elimination of gaps with the existing legislation.

Labour exchange: public and private

According to article 1, §c. labour exchange is the continuous activity with the aim to connect employers and jobseekers with each other, with a view to realize employment in the private or the public sector. The PES of the Ministry of Labour is the sole authority with the right to be engaged in public employment placement. All other labour exchange is private (article 2). The PES arranges meetings between jobseekers and employers. It is up to them to freely conclude an employment contract.

Services of the PES are free, additional costs made on requests of the employer or jobseeker, such as publication of an add, should be compensated (article 3).

Private labour exchange

Article 4 of the LEA mentions three kinds of private employment placement (labour exchange) services:

1. private labour exchange service with profit motive;

2. non-profit labour exchange, with compensation of costs; and

3. non-profit private employment placement without any compensation whatsoever.

The categories mentioned in points 1. and 2. are only allowed with a permit from the Permanent Secretary of Labour (article 5), while for category 3. approval is required from the Permanent Secretary when migrant workers or foreign employers are involved (article 6). The Permanent Secretary can withdraw such permission or approval (article 12).

Fees and quid pro quo

Labour exchange bureaus are forbidden to charge fees in the form of consideration (quid pro quo) from the jobseeker (article 10, paragraph 1). Registration fees are permitted (article 10, paragraph 2) and tariffs for registration fees are determined by the Minister of Labour.

The grounds for refusal of a permit are identical to that of the Private Employment Agencies Act. article 12, paragraph 1 mentions the grounds for withdrawal of a permit or an approval.

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40 Decree Terms of Reference Departments of Government (SB 1991 No. 58) as lastly amended by SB 2020 No. 151.

Applicants for permits have an objection and an appeal procedure at their disposal (articles 14 and 15).

Non-discrimination

Services are in general provided by the PES and private labour exchange bureaus for every employer and jobseeker without any distinction whatsoever, with the exception of the bureaus mentioned in article 4 §c. (article 16, paragraph 1). Discrimination by labour exchange bureaus on the basis of ethnic background, colour, gender, religion, political opinion, national and social origin, membership of an association or by any other means according to law and practice, is prohibited, except in case of justifiable reasons (article 16, paragraph 2). The non-discrimination provision does not hinder labour exchange bureaus from promoting equality in employment through affirmative action programmes for vulnerable groups (article 16, paragraph 3).

According to article 16, paragraph 4, citizens of the CARICOM countries should be aware of their possibility to benefit from the free movement of persons regime.

Protection of data

All labour exchange bureaus maintain a register of its clients, the employers and jobseekers. The labour exchange bureaus are forbidden to restrict or hinder the registration of the jobseeker at other bureaus for labour exchange (article 17, paragraph 5). The LEA obliges the worker (former jobseeker) and the employer who conclude an employment contract as a result of labour exchange, to notify the bureau of the conclusion of the contract within seven days (article 17, paragraph 7).

Article 18 regards the protection of personal data of workers. The provisions are applicable to the processing of personal data of workers by labour exchange bureaus. Unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, agencies should not require, maintain or use information on the medical status of a worker, or use such information to determine the suitability of a worker for employment.

Child labour

Labour exchange bureaus render their services to jobseekers who are at least 16 years of age (article 19).

Labour exchange and labour relations

The labour exchange bureaus do not place jobseekers in enterprises or parts of enterprises where workers are on strike or where the employer imposes lockouts or where such actions are expected (article 20, paragraph 1). During a labour dispute, jobseekers are not eligible for labour exchange services if they are directly involved in strikes and lockouts or in disputes tending to lead to strikes and lockouts (article 20, paragraph 2). According to article 20, paragraph 3, the labour exchange bureau has to notify the jobseeker or employer in writing about the grounds (paragraphs 1 and 2) for refusal to render services.

Safety and employment conditions

The labour exchange bureau informs jobseekers of the nature of the position offered and the applicable terms and conditions of employment and the level of safety involved. The jobseekers should be informed of their conditions of employment before the effective beginning of the employment (article 22, paragraph 1). It is forbidden for bureaus to provide labour exchange services to enterprises knowing that the jobs involve unacceptable hazards or risks or that workers may be subjected to abuse or discriminatory treatment (article 21). The bureau does not provide its services when this

will lead to the conclusion of an employment contract less favourable than the collective bargaining agreement to which the employer and the jobseeker will be bound by (article 21).

Employment contract

After the jobseeker gets employed via labour exchange, the bureau should receive a written contract of employment from the new employer specifying the terms and conditions of employment within two working days after the commencement of the employment relationship. The contract should be signed by both parties (article 22, paragraph 2).

The labour exchange bureau is not responsible for the consequences of its job placement activities (article 23) such as default or misbehaviour of parties. Such a provision existed in the old law (article 8).

Cooperation public and private labour exchange bureaus

Article 24 of the LEA is focused on the cooperation between PES and the private labour exchange bureaus. The Permanent Secretary has the obligation to promote the cooperation by formulating conditions in the permit granted in this regard.

Supervision

Breach of the law can result in sanctions (fine and imprisonment). The Labour Inspection is entrusted with the task to supervise the fulfilment of the law.

6.20 Private Employment Agencies Act

The Private Employment Agencies Act[41] (WTBAI) is a new law in Suriname governing the functioning of temporary work agencies uitzendbureaus.

The primary objective of the WTBAI is to establish the relationship between the Government and the temporary work agencies with the main focus to prevent the exploitation of workers. The Government of Suriname ratified the relatively new ILO Employment Agencies Convention, 1997, No. 181 in April 2006 (ILO Convention No. 181). The Employment Agencies Recommendation, 1997, No. 188 is linked to this Convention.

Temporary agency work: triangular relationship

Article 1, §e. of the WTBAI defines the activity of temporary work agencies as making workers available to a third party (user enterprise) - as a commercial activity - which assigns them their tasks and supervises the execution of these tasks not based on an employment contract. The temporary work agency is an organization certified to make workers available as commercial activity as mentioned in this definition (article 1, §i.).

Based on the above definitions the temporary agency worker is a person who is made available by the temporary work agency to a user enterprise (article 1, §j). Temporary agency work is defined as temporary work which is being performed by a temporary agency worker for and in the user enterprise, but not based on an employment contract between these two (article 1, §h). An important party in the triangular relationship of temporary agency work is the user enterprise, a company who

41 Private Employment Agencies Act (SB 2017 No. 42).

uses temporary agency workers for a certain period of time with the intervention of a temporary work agency.

Temporary agency permit

The WTBAI introduces the requirement of the temporary work agency permit. The permit is issued by or on behalf of the Permanent Secretary of Labour (article 2, paragraphs 1 and 2). The permit is not permanent and can be issued for five years maximum. The Permanent Secretary can grant the permit or deny or withdraw it on the grounds mentioned in articles 7, 8 and 9.

A fee should be paid by the agency for the permit (article 3, paragraph 1). Restitution of the payment is impossible regardless of whether the permit is granted or not (article 3, paragraph 2). The Permanent Secretary has 14 work-days according to the WTBAI to make a decision on the application. The Permanent Secretary may extend this period with seven working days if needed (article 4, paragraph 2). The law provides for possibilities for electronic communication with regard to the decision (article 4, paragraph 3).

The permit can be granted under certain general conditions. The Permanent Secretary can include special conditions in the permit based on specific circumstances. These specific circumstances have to be established by decree.

Article 7 mentions the grounds for refusal of the first permit application and also of the extension of permits. The permit can be revoked or refused if the applicant has violated workers' rights and his/her obligations in this regard. A ground for refusal or withdrawal of a permit is the neglect or violation of the conditions under which the permit has been granted.

Article 8 mentions the imperative grounds for withdrawal of the permit.

The applicant has the right to appeal to the Minister of Labour against a refusal or withdrawal of the permit within 30 days from the day the decision is known or should be known to him/her (article 11, paragraph 1).

Maximum period for agency work: two years and other rights and requirements

An important clause in the WTBAI is to set limits to the period during which a temporary agency worker can be made available to the same user enterprise. There is a limit of two years and a legal prohibition for agencies to make a worker available to the same user enterprise for a longer period. According to article 10, paragraph 2, gaps of less than six months are not taken into account when calculating the maximum period of two years.

The WTBAI has provisions for user enterprises. The law forbids the user enterprise to consecutively employ the same agency worker via different agencies (article 10, paragraph 3). The law does not forbid the employment of workers for a certain period of time where there is a need for labour for activities with a temporary nature (article 10, paragraph 4).

The law considers the temporary work agency as the employer of the agency worker (article 12, paragraph 1). The worker has an employment contract with the agency during the time he/she is being made available to the user enterprise.

The agency worker has the right to payment of the same remuneration and to other labour provisions as the worker directly employed by the user enterprise for the work in the same or comparable position (article 11, paragraph 2).

Agency workers have the right to freely establish their own trade unions in order to defend their interests (article 12, paragraph 3). Temporary agency workers should be older than 18 years (article 12, paragraph 4). It is prohibited for the agency to hinder the occupational mobility of the agency worker if he/she seeks or accepts employment with another party (article 12, paragraph 5). The imposition of fines for accepting direct employment is forbidden (article 12, paragraph 6).

Agencies shall not charge fees in the form of consideration (quid pro quo) from the worker (article 13, paragraph 1). Fees and other costs are forbidden.

The agency does not assign agency workers to enterprises or parts of enterprises where workers are on strike or where the employer imposes lock-outs or where such actions are expected.

The agency has the obligation to inform agency workers, in Dutch, and as far as possible in their own language or in a language with which they are familiar, about:

a. the nature of the position offered; and

b. the applicable terms and conditions of employment and the safety conditions.

It is forbidden for agencies to make workers available to user enterprises knowing that the jobs involve unacceptable hazards or risks or where workers may be subjected to abuse or discriminatory treatment (Article 13, paragraph 5).

Twice a year, agencies submit available data of the registered agency workers and jobseekers to the Minister of Labour (article 12, paragraph 7).

The agency has the responsibility to give such an agreement (signed by both parties) to the worker within two days after the beginning of the assignment (article 13, paragraph 4).

The temporary work agencies must refrain from discrimination of workers on the basis of birth, race, language, education, religion, political opinion, economic position, social origin or any other status. The agency applies the principle of equality of treatment in drawing up and publishing vacancy notices or offering employment (article 14, paragraph 1). This prohibition does not discourage agencies from promoting equality in employment through affirmative action programmes for vulnerable groups (article 14, paragraph 2).

Article 15 contains provisions with regard to the protection of personal data of workers. Unless directly relevant to the requirements of a particular occupation, and with the express permission of the worker concerned, agencies should not require, maintain or use information on the medical status of a worker, or use such information to determine the suitability of a worker for employment (article 15, paragraph 4).

Article 16 of the law is focused on the cooperation between the PES and private employment agencies.

Supervision

Breach of the law can result in sanctions by fines and imprisonment. The Labour Inspection is entrusted with the task to supervise the fulfilment of the WTBAI.

6.21 Dismissal Act 2018

The purpose of the dismissal legislation is to protect employees, promote job security and prevent unjustified layoffs. The Dismissal Permit Act was repealed with the entry into force of the Dismissal Act 2018[42] (DA). The DA still maintains the licensing system, broadens dismissal protection based on international standards and introduces a review procedure outside the administration. The Dismissal Act 2018 does not apply to the employment relationship of civil servants as referred to in article 1 of the Personnel Act (GB 1962 No. 95) (article 1, paragraph 2). This law applies to the employment contract that is exclusively governed by the CC.[43]

Two dismissal procedures within the administration

1. Notice via Dismissal Board

An employer is prohibited from terminating the employment of an employee without a dismissal permit issued by or on behalf of the Minister of Labour (article 2, paragraph 1). If an application has been rejected, a second application for a dismissal permit can be made in the event of new grounds (article 2, paragraph 2). The dismissal prohibition also applies to the temporary agency work employment relationship in the event that no agency clause uitzendbeding has been made in the agreement between the temporary worker and the intermediary. This stipulation means the agency work employment contract ends by operation of law, if the user enterprise refuses to accept the duties of the worker.

The Dismissal Board (DB) has the task to review the application for a permit from an employer to terminate the employment relationship with an employee and to take a decision on behalf of the Minister (article 3, paragraph 1). This decision may be that the employer is granted a permit or that no permit is granted. In the first case, the employer has the right to terminate the employment with due observance of the termination provisions (including the correct notice moment and notice period). Termination of the employment with a lawfully obtained permit does not yet indemnify him/her against a claim of the employee in court on the basis of "manifestly unreasonable dismissal" (article 1615s BW).

If no permit is granted, there is no permission for the employer to terminate the employment unilaterally.

Further rules regarding the organization, composition and working method of the DB, as well as the task and working method of the head of the Labour Inspectorate, are regulated in the new Dismissal Decree 2021.

2. Summary dismissal via Labour Inspection

If dismissal is given for an urgent reason as referred to in article 1615p of the CC, the employer is obliged to report this in writing to the Head of the Labour Inspectorate within four working days, stating the urgent reason (article 2, paragraph 2). The Head of the Labour Inspectorate is responsible for deciding on behalf of the Minister, (with regard to the notification of the termination of employment for urgent reasons) whether or not there is an objection against the stated reason(s) (article 3, paragraph 2). The decision can be an objection against the stated reason (and thus the dismissal) or no objection against the stated reason(s).

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42 SB 2018 No. 94.

43 The Dismissal Board could get jurisdiction over the termination of employment of civil servants in the future. For this purpose, a Public Service Department could be introduced in the system of the Dismissal Board. This could result in more job security for civil servants who are now solely depending for their cases on the Court of Justice where there are no appeal possibilities once a verdict has been given.

While the termination of the employment by notification after obtaining a permit occurs becomes operational in the future, the summary dismissal after no objection is made by the Head of the Labour Inspectorate comes into effect the day on which the termination notification was given to the employee in the past ex tunc.

Hearings incarcerated employees

The DB and the Head of the Labour Inspectorate and officials designated by them have access at all times to employees who have been detained. This allows those employees to be heard regarding a notice of dismissal, or an application for a dismissal permit (article 3, paragraph 3). This is taking into account the power of judicial and prosecution authorities.

Dismissal prohibition: exceptions

The prohibition on dismissal (prohibition of termination of employment without a permit) does not apply in a number of cases of termination of employment (article 4). This concerns the following cases:

a. in case of termination by mutual consent;

b. upon termination by operation of law ipso jure after the term of the employment contract;

c. upon termination during the stipulated probationary period;

d. in the event of termination for an urgent reason;

e. in the event of termination based on a fixed-term employment contract with a resolutive condition;

f. in case of the temporary agency employment clause uitzendbeding; and

g. upon termination of the employment contract by the court.

Special notice prohibitions

Article 6 contains a number of special dismissal prohibitions and can be regarded as a core provision in the dismissal legislation. These relate to:

a. freedom of association;

b. strike (lawful);

c. sickness of the employee;

d. maternity (leave);

e. absence due to legal obligations;

f. proceedings against the employer and discrimination; and

g. hazardous working conditions.

Defense and assistance

Before terminating the employment contract for reasons related to the employee, the employer must first offer the employee the opportunity to put forward a defence verbally or in writing, within at least three working days (article 8, paragraph 1). This obligation does not apply to immediate termination for urgent reason. According to article 8, paragraph 2, an employee has the right to be assisted by third parties if he/she has been asked by the employer to defend himself/herself against the grounds put forward that could lead to termination of the employment.

An employer loses his/her right to terminate the employment for reasons related to the employee, if he/she fails to do so within a reasonable period after becoming aware of those reasons (article 9). All this is at the discretion of the DB or the Court.

Procedures for granting a dismissal permit

The DB will decide in writing, with reasons stated on an application, for the granting of a dismissal permit (article 10, paragraph 1).

The dismissal permit can be granted under certain conditions (article 10, paragraph 2). These terms may depend on the circumstances of the case and must originate from the Constitution, international labour standards, other laws in force or in preparation or an offer made by one of the parties and may, for example, relate to notice periods.

Legal notice period

If a dismissal permit has been granted to the employer, the employer is permitted to terminate the employment relationship, subject to the statutory notice period and/or the applicable collective labour agreement provisions or the provisions of the employment contract (article 11, paragraph 1). The most favourable notice periods for the employee are used for the termination. If nothing has been arranged, the CC terms apply (article 1615i et seq.).

The dismissal permit is not a general permit, but it must be applied for before each termination of a worker.

If the DB has granted permission for dismissal, the period during which the permission applies and during which the employer can make use of it is no more than eight weeks from the date of the written notification of the decision to the employer (article 11, paragraph 2).

Breach of dismissal procedures: nullity of dismissal

The termination of an employment contract by an employer is null and void, if no dismissal permit has been granted in the case of termination. Likewise, an instant dismissal is null and void if no notification has been made by the employer or if the Head of the Labour Inspectorate has not decided that there is no objection to the dismissal reason(s) (article 12).

College of Labour Affairs

Within seven working days after the decision of the DB and the Head of the Labour Inspectorate has been notified to the employer, they may request a written revision thereof from the College of Labour Affairs. The College may, with reasons, nullify the first decision (no permit or objection). In these cases, the College will issue the permit or declare that it has no objection (article 13, paragraph 1). This semi-judicial College has not yet been established and will be replaced by an administrative appeal body.

Further rules and guidelines

Further rules have been laid down by State Decree[44] with regard to the provisions of or pursuant to the Dismissal Act 2018. The Minister of Labour may adopt general guidelines by order to assess whether or not to grant a dismissal permit. The Minister can establish guidelines for the procedure for handling instant dismissal for urgent reasons (article 16).

The DB and the Labour Inspectorate are bound by the principle of hearing both sides (and motivation of its decision).

The DB is bound by special requirements with regard to the assessment of cases submitted to it. Pursuant to the Dismissal Board Decree, instructions were given by Order of the Minister of Labour in 1994, on the assessment of applications for dismissal permits. These instructions have become common good usage after approximately 26 years of consistent application.[45] According to the stipulations of this Ministerial Order of 1994, the following should primarily be investigated in individual cases:

- whether the stated reason for dismissal is valid or not valid;
- whether the procedure followed by the employer is in conflict with the law, the collective labour agreement, the employment regulations or case law or there is no conflict.

The Ministerial order contain special provisions for collective dismissal which relate to constructive dialogue, an objective selection procedure and sound financial information and reports.

Simplified procedure for certain categories

The Ministerial Order of 1994 stipulates that certain categories of employees will be subject to a non-specified "simplified procedure".

Penalties for violations in the Dismissal Act 2018 include fines and imprisonment.

6.22 Work Permits Act

The aim of the Work Permits Act[46] (WPA) is to regulate the number of foreign workers on the Surinamese labour market. The WPA prohibits employers from employing foreigners without a work permit that is granted by the Permanent Secretary (article 3).

This obligation does not apply:

a. in the case of civil servants (article 1, paragraph 2);

b. to bilateral agreements with other States or Conventions (article 2);

c. to foreigners with a Surinamese spouse (Order of the Minister of Labour and Public Health of 13 October 1983);

d. to remigrants of Surinamese origin (idem);

44 SB 2021 No. 58.

45 Ministerial Order Minister of Labour 26 July 1994 No. 1861.

46 Act of 24 October 1981 Decree E26 (SB 1981 No. 162) as lastly amended by SB 2002 No. 23.

e. to legal refugees (idem);

f. to categories of CARICOM citizens for whom a permit is not required as mentioned in the Revised Treaty of Chaguaramas. A work permit is applied for by the employer and the worker concerned (article 4, paragraph 1); and

g. holders of the People of Suriname Origin (PSA) card.[47]

The Minister of Labour introduced an application form as required by law (article 4, paragraph 2). Applications are not considered until:

a. full information and evidence are submitted; and

b. a residence permit is submitted or evidence that the residence permit is applied for (article 4, paragraph 4).

The Head of the Work Permits Department, on behalf of the Permanent Secretary, grants the permit within 30 days after application. The period can be extended for another 30 days (article 4, paragraph 5). The permit is granted to the employer for one employee for a certain kind of labour (article 5, paragraph 1). An application for a work permit shall be rejected in the case where there is a rejection of the residence permit to a foreigner or in the event that he/she is declared an undesirable alien (article 6). An application for a work permit can be rejected for employment for which Surinamese labour is available or expected to be available on the labour market (article 7).

A permit can be withdrawn:

a. if residence in Suriname is not allowed anymore, except if the foreigner cannot be deported (article 8);

b. if incorrect or incomplete information has been furnished, influencing the issuance of the permit (article 9); and

c. if the permit is not of use anymore (article 9).

All decisions related to work permits are in writing (article 10). The Minister of Labour is the appellate authority against the rejection or withdrawal of work permits (article 11). Offences of the provisions of the WPA are punished by fines and imprisonment (article 12). The Labour Inspectorate, police and special officials of the Minister of Labour investigate offences of the WPA (article 14).

6.23 The Free Movement of CARICOM Skilled Nationals Act

The Free Movement of CARICOM Skilled Nationals Act (CSNA)[48] implements articles 45 and 46 of the Revised Treaty of Chaguaramas regarding the free movement of CARICOM skilled nationals. According to the CSNA, all CARICOM nationals can apply for recognition of the status of CARICOM skilled national to the Minister of Labour (article 4, paragraph 1). The recognition constitutes:

a. issuance of a Certificate of Recognition of Caribbean Community;

b. skills qualification; or

47 Act of 21 January 2014 (PSA Act; SB 2014 No. 8).

48 Act of 6 February 2006 (SB 2006 No. 19) as amended by SB 2008 No. 29.

c. verification of an issued certificate as mentioned by another CARICOM Member State.

The CSNA gives the Minister of Labour the authority to certify seven categories of CARICOM Nationals by issuing a Certificate of Recognition of Caribbean Community Skills Qualification. Those CARICOM Nationals are entitled to work in other CARICOM territories of countries participating in the CARICOM Single Market and Economy, eventually after verification.

The Minister of Labour grants CARICOM skilled nationals certified by another participating Member State of CARICOM, unrestricted access to the labour market after verification of the certificate. The Minister of Labour can revoke the Certificate of Recognition of Caribbean Community Skills Qualification issued by him/her. The Commission on Free Movement of CARICOM Skilled Nationals (CFMP), consisting of representatives of seven Ministries, advises the Minister of Labour on free movement issues and deals with applications regarding the issue or verification of certificates and advises the Minister in this regard. The CFMP furthermore coordinates the preparation and adoption of legislation, procedures and guidelines on the free movement of CARICOM skilled nationals and advises other ministries on these matters.

The Commission also deals with complaints from CARICOM skilled nationals related to free movement.

The Commission on Free Movements of Persons consists of representatives of the following seven ministries:

1. Labour;
2. Trade and Industry;
3. Education and Public Development;
4. Justice and Police;
5. Defence;
6. Foreign Affairs; and
7. Internal Affairs

The seven categories of CARICOM skilled nationals are:

1. academics;
2. media workers;
3. sportspersons;
4. musicians;
5. artists;
6. teachers; and
7. nurses

Three more categories (artisans, persons with an HBO (higher vocational education) degree and domestic workers) have to be added to these seven categories. A bill is submitted to The National Assembly to include agricultural workers, beauty service practitioners, barbers and security guards to the list.

6.24 The Penal Code

Child labour

Legal representatives can be punished if they offer a child under 12 years of age, who is placed under their supervision, to another person knowing that they will be subjected to work harmful to their health or otherwise (article 311).

The Criminal Code[49] was amended in 2006, adding a number of provisions regarding the worst forms of child labour. The ages to determine the limit with regard to the above are variously set at 12, 16, 17 and 18 years.

Compulsory labour

The Criminal Code has changed significantly in 2015 in terms of compulsory labour. The provision that the court has the power to determine whether a convicted person will be employed in public works (former article 14) has been repealed. The penalties that the judge can now impose also include the main penalty of 'community service' (article 9 paragraph 1, §a 3º). With regard to crimes and offenses that are threatened with a custodial sentence, the judge can impose a community service order. A community service consists of a community service order, which is the performance of unpaid work, or a training order, this is following a learning project, or a combination of both (article 9, paragraph 2). The number of hours that the community service lasts is a maximum of 480 hours, of which no more than 240 hours can be community service (article 39, paragraph 2).

By order of the judge and the Public Prosecution Service, a convicted person can be supervised by a probation institution or a probation officer in the execution of the community service order. The latter can also supervise the way in which the community service is performed (article 39, paragraph 2).

Young persons

After the 2015 amendment, the Criminal Code also has separate provisions with regard to young persons. Young persons are those who have reached the age of 12 but not 18 years (article 105).[50] In the case of juveniles, community service is possible as the principal punishment for both an offense and a crime (article 105f). Community service consists of performing unpaid work or performing work to repair the damage caused by the criminal offence. A community service order can also include a learning sentence (a learning project) or a combination of both (article 105f, paragraphs 1 and 2).

The duration of unpaid work or of work to repair the damage caused by the criminal offense is a maximum of 200 hours (article 105k, paragraph 2). The duration of a learning project is a maximum of 200 hours and must take place within six months (article 105k, paragraphs 4 and 5).

The option of alternative juvenile detention also applies to juveniles if the community service order is

49 Act of 14 October 1910 (GB 1911 No. 1) as lastly amended by SB 2012 No. 70; SB 2014 No. 118; SB 2015 No. 44.

50 This age limit differs from the Child Labour Act.

not properly performed (article 105l et seq.). In the performance of community service by juveniles, guidance is provided through the juvenile probation service (article 105m).

The judge has the power not to apply the deviating rules for young persons aged 16 to 18 years, but those that apply to adults (article 105a).

Employment contracts on ships

The Penal Code contains some provisions on the employment contract on ships (articles 455–458 and 462–463). These relate to:

a. punishment of the ship master in case of neglect of duties on a Surinamese ship;
b. punishment in case of desertion by crewmembers on a Surinamese ship;
c. punishment of ship owner, ship master or bookkeeper for employing deserting crewmember on Surinamese ship; and
d. insubordination and persistence of this insubordination by crewmembers on a Surinamese ship.

The Commercial Code also has specific provisions that apply to apply to the employment contract between the shipowner and the seafarer (see next paragraph).

6.25 The Commercial Code

The employment between crew members and shipowners is regulated by the Commercial Code[51] (Book II, title IV, paragraph 2). According to the Commercial Code "crew members" are only those who have concluded an employment contract with shipowners (article 490). All rules of the CC are applicable on the employment relationship between crew members and ship-owners if not stipulated otherwise in the Commercial Code (article 491). The employment contract should be in writing in order to be valid (article 492).

The provisions of the Commercial Code (Book II, title IV, paragraph2) are related to:

- the duration of the employment contract (articles 49 –495 and 504–506);
- formal requirements regarding the employment contract (articles 496 and 497);
- minimum age (articles 498–500);
- standing employment conditions (articles 501–503);
- food, nourishment and facilities (articles 507–510);
- weapons (article 511);
- remuneration (articles 512–514 and 527–531);
- holidays and rest (article 515);
- employment injury (articles 516 and 517);
- authority of the captain (articles 490, 518–521 and 523);

51 Act of 2 June 1936 (GB 1936 No. 115) as lastly amended by SB 2003 No. 93.

- disembarking (articles 522–523);
- fine (articles 524–525);
- compensation to wife and children (article 526);
- termination of employment (articles 531–548);
- testimonial (article 549); and
- salvage, towing, shipwreck and transportation (articles 550–553)

The Commercial Code was amended in 2016 for the Naamloze Vennootschaps (NVs). This has implications on the status of managers/directors of the NVs. These are no more considered to be employed under an employment contract in the sense of article 1613a of the CC, unless their contract was concluded prior to 17 August 2016. Therefore, the requirements of a dismissal permit and notice periods do not apply to these persons anymore.

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Appendices

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Appendix I

List of laws under supervision of the Labour Inspectorate

- Child Labour Act
- Civil Code
- Collective Bargaining Agreements Act 2016
- Commercial Code
- Contract Labour Act
- Dismissal Act 2018
- Freedom of Associations Act
- Free Movement of CARICOM Skilled Nationals Act
- Holidays Act
- Industrial Accidents Act
- Labour Exchange Act
- Labour Mediation Act
- Maternity Protection Act
- Minimum Wage Act
- Occupational Safety and Health Act
- Private Employment Agencies Act
- Safety Regulation 1
- Safety Regulation 2
- Safety Regulation 3
- Safety Regulation 4
- Safety Regulation 5
- Safety Regulation 6
- Safety Regulation 7
- Safety Regulation 8
- Safety Regulation 9
- The Labour Code
- Tobacco Act
- Work Permits Act

The following two laws are of concern for labour but the Labour Inspectorate is not officially authorized to supervise the application:

1. General Pension Act
2. National Basic Care Act

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Appendix II

ILO Conventions and Protocol ratified by Suriname

The information is listed by:

- Convention
- Ratification date
- Note

1	Forced Labour Convention, 1930 (No. 29) ▶ 15 Jun 1976
2	Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) ▶ 15 Jun 1976
3	Abolition of Forced Labour Convention, 1957 (No. 105) ▶ 15 June 1976
4	Labour Inspection Convention, 1947 (No. 81) ▶ 15 June 1976
5	Right of Association (Agriculture) Convention, 1921 (No. 11) ▶ 15 June 1976
6	Employment Policy Convention, 1964 (No. 122) ▶ 15 June 1976
7	White Lead (Painting) Convention, 1921 (No. 13) ▶ 15 June 1976
8	Weekly Rest (Industry) Convention, 1921 (No. 14) ▶ 15 June 1976
9	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) ▶ 15 June 1976
10	Workmen's Compensation (Accidents) Convention, 1925 (No. 17) ▶ 15 June 1976
11	Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) ▶ 15 June 1976
12	Safety Provisions (Building) Convention, 1937 (No. 62) ▶ 15 June 1976
13	Night Work (Women) Convention (Revised), 1934 (No. 41) ▶ 15 June 1976 ▶ Not in force ▶ Abrogated Convention - By decision of the International Labour Conference at its 106th Session (2017)

14	Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) ▶ 15 Jun 1976
15	Employment Service Convention, 1948 (No. 88) ▶ 15 Jun 1976
16	Protection of Wages Convention, 1949 (No. 95) ▶ 15 June 1976
17	Labour Clauses (Public Contracts) Convention, 1949 (No. 94) ▶ 15 June 1976
18	Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96) Has accepted the provisions of Part II ▶ 15 June 1976 ▶ Not in force. Automatic Denunciation on 12 April 2007 by C181 - Private Employment Agencies Convention, 1997 (No. 181)
19	Holidays with Pay (Agriculture) Convention, 1952 (No. 101) ▶ 15 June 1976
20	Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) ▶ 15 June 1976
21	Minimum Age (Fishermen) Convention, 1959 (No. 112) ▶ 15 June 1976 ▶ Not in force ▶ Automatic denunciation on 15 January 2019 by Convention C138
22	Equality of Treatment (Social Security) Convention, 1962 (No. 118) ▶ 15 June 1976 ▶ Suriname has accepted Branch (g)
23	Workers' Representatives Convention, 1971 (No. 135) ▶ 15 June 1976
24	Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) ▶ 16 November 1979
25	Labour Administration Convention, 1978 (No. 150) ▶ 29 September 1981
26	Labour Relations (Public Service) Convention, 1978 (No. 151) ▶ 29 September 1981Not in force
27	Right to Organize and Collective Bargaining Convention, 1949 (No. 98) ▶ 5 June 1996
28	Collective Bargaining Convention, 1981 (No. 154) ▶ 05 June 1996
29	Private Employment Agencies Convention, 1997 (No. 181) ▶ 12 April 2006
30	Worst Forms of Child Labour Convention, 1999 (No. 182) ▶ 12 April 2006

31	Discrimination (Employment and Occupation) Convention, 1958 (No. 111) ▶ 4 January 2017
32	Equal Remuneration Convention, 1951 (No. 100) ▶ 4 January 2017
33	Minimum Age Convention, 1973 (No. 138) ▶ 15 January 2018 ▶ Minimum age specified: 16 years
34	Protocol of 2014 to the Forced Labour Convention, 1930 ▶ Ratified on 3 June 2019

The following four Conventions are on schedule to be ratified according to the Decent Work Country Programme Suriname 2019-2021:

- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Labour Inspection in Agricultural Sectors (No. 129);
- Minimum Wage Fixing Convention 1970 (No. 131); and
- Maternity Protection Convention, 2000 (No. 183)

The ratification of these four Conventions has been submitted to the tripartite Labour Advisory Board for its advice in October 2021.

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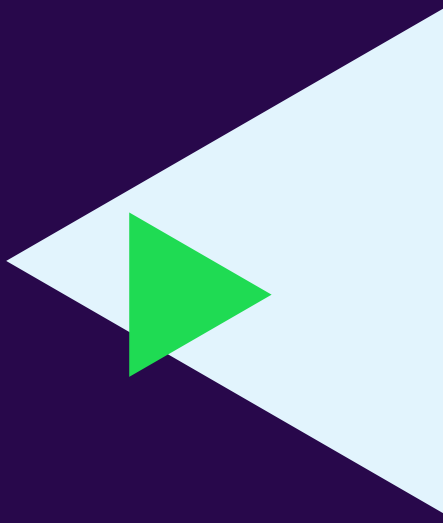

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