

# **CAMEROUN**

## **Labour Code**

**Law No. 92/007 of 14 August 1992**

### **PART I**

#### **GENERAL PROVISIONS**

**Section 1:** (1) This law shall govern labour relations between wage-earners and employers as well as between employers and apprentices under their supervision.

(2) In this law, "worker" shall mean any person, irrespective of sex or nationality, who has undertaken to place his services in return for remuneration, under the direction and control of another person, whether an individual or a public or private corporation, considered as the "employer". For the purpose of determining whether a person is a worker, no account shall be taken of the legal position of employer or employee.

(3) This law shall not apply to staff governed by :

- - the General Rules and Regulations of the Public Service;
- - the Rules and Regulations governing the Judicial and Legal Service;
- - the General Rules and Regulations governing Servicemen;
- - the Special Rules and Regulations of the National Security;
- - the Special Rules and Regulations of Prison Administration Civil Servants;
- - the special provisions applicable to auxiliary staff.

**Section 2:** (1) The right to work shall be recognized as a basic right of each citizen. The State shall therefore make every effort to help citizens to find and secure their employment.

(2) Work shall also be a national duty incumbent on every able-bodied adult citizen.

(3) Forced or compulsory labour shall be forbidden.

(4) "Forced or compulsory labour" shall mean any labour or service demanded of an individual under threat of penalty, being

a labour or service which the individual has not freely offered to perform.

(5) However, the expression "forced or compulsory labour" shall not include :

- 1. any work or service exacted by virtue of compulsory military service laws and regulations for work of a purely military nature;
- 2. any work or service in the general interest forming part of the civic obligations of citizens as defined by the laws and regulations ;
- 3. any work or service exacted from any person as a consequence of a conviction in a court of law ;
- 4. any work or service exacted in cases of force majeure, that is to say, in the event of war, disaster or threatened disaster, such as fire, flood, severe violent epidemic or epizootic diseases, invasion by animals, insects or plant pests, and in general, any occurrence that would endanger or threaten to endanger the existence of the well-being of all or part of the population.

## **PART II**

### **TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS**

#### **CHAPTER I**

##### **PURPOSES OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS AND THEIR ESTABLISHMENT**

**Section 3:** The law recognizes the right of workers and employers, without distinction whatsoever, to set up freely and without prior authorization (trade unions or employers' associations), associations for the study, defence, promotion and protection of their interests, particularly those of an economic, industrial, commercial or agricultural nature, and for the social, economic, cultural and moral advancement of their members.

All activity by such unions and associations which is not connected with the furtherance of the above objectives shall be prohibited.

**Section 4:** (1) Every worker and employer shall have the right to join a trade union or employers' association of his own choice in his occupation or kind of business.

(2) Workers shall be protected from :

- (a) any acts of anti-union discrimination in respect of their employment;
- (b) any practice tending :
  - - to make their employment subject to their membership or non-membership in a trade union ;
  - - to cause their dismissal or other prejudice by reason of union membership or non-membership or participation in union activities.

(3) Any act contrary to the provisions of this section shall be null and void.

**Section 5:** (1) Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives freely and to organize their administration, provided they respect the laws and regulations in force.

(2) Workers' and employers' organizations shall be forbidden to interfere in each other's activities.

**Section 6:** (1) A trade union or employer's association shall not have legal existence until the day on which a certificate of registration has been issued to it by the registrar of trade unions and employers' associations.

(2) Any person forming a trade union or employers' association that has not yet been registered and who acts as if the said union or association has been registered shall be liable to prosecution.

(3) The registrar of trade unions and employers' association shall be a civil servant appointed by decree.

**Section 7:** (1) No one shall be a member of a trade union unless he is in fact gainfully employed at the time of his joining it.

(2) However, a person who has ceased to be gainfully occupied may continue to be a member of his trade union, provided :

- 1. he has carried on his occupation for at least (6) six months, and
- 2. he is engaged in union activity or is appointed by virtue of his occupation to a post for which provision is made by laws and regulations.

**Section 8:** Every application for registration of a trade union or employers' association shall be signed by at least 20 members if it is a workers' union or at least 5 members if it is an employers' association. The rules of trade unions and employers' associations shall comply with the provisions of this law.

**Section 9:** The form under which trade unions or employers' associations shall be set up in order for them to be registered shall be fixed by decree after the recommendation of the National Labour Advisory Board.

**Section 10:** (1) The persons applying for registration of a trade union or employers' association and the members responsible for its administration and management shall be in possession of their civic rights and shall be convicted of any offence involving a penalty laid down in Section 30 (1), (2) and (3) of the Penal Code.

(2) Aliens shall be required in addition to have resided for not less than five years in the territory of the Republic of Cameroon.

**Section 11:** (1) Registration of a trade union or employers' association shall be effected as follows :

- (a) an application to register the union or association and its rules shall be sent to the registrar of trade unions or employers' association ; the application shall be accompanied by two copies of the rules and a list of the names of the officers of the union or association and of their titles as such ;
- (b) the registrar shall acknowledge receipt of the application, examine it and register the trade union or association and its rules within a period of one month. After

that deadline, the trade union or association shall be considered as having been registered.

- (c) The registrar shall not register any trade union or employers' association under a name identical to that under which any existing union or employers' association has been registered as may lead members of the unions or association or third parties into error.

(2) A decree shall determine the form of the certificate of registration.

**Section 12:** (1) If the application for registration does not comply with the conditions, the registrar shall inform the applicants of his observations in writing and request them to re-submit the application.

(2) Upon receipt of the resubmitted application the registrar shall either register the trade union or, if he refuses to do so, notify in writing within thirty days, the applicants of his refusal and the reasons therefor.

**Section 13:** (1) The registrar may cancel the registration of a trade union or employers' association if it is established :

- (a) that the certificate of the registration was obtained by fraud;
- (b) that the registered union or association has wilfully violated any provision of this law or carried out non-statutory activities ;
- (c) that the registered union or association has ceased to exist.

(2) Before such cancellation is effected, the registrar shall give the union or association concerned two months' notice specifying the reason for his decision.

(3) Whenever a registrar cancels the registration of a trade union or employers' association, he must make known the steps he has taken by adequate publicity, and especially by publishing the decision in the Official Gazette.

**Section 14:** Any trade union, member of a trade union or person feeling aggrieved by a decision of the registrar to refuse or to

cancel registration of a trade union or employers' association may, within thirty (30) days of notification of such decision, refer the matter to the competent court, the judgement of which shall be open to appeal. The registrar shall be entitled to be heard at any stage of the proceedings.

## **CHAPTER II**

### **RULES OF TRADE UNIONS AND EMPLOYERS' ASSOCIATION**

**Section 15:** The rules of every trade union and employers' association shall comprise the following provisions :

- (a) The name of the union or association and its registered office ;
- (b) The purposes for which the union or association is established;
- (c) The intended purpose of the funds and the percentage of contributions earmarked for social work ;
- (d) The procedure for establishing, amending or rescinding the rules ;
- (e) The procedure for appointing and removing the Union or Association leaders from office, as well as sanctions which may be meted to members ;
- (f) The prohibition to elect as President, Secretary or Treasurer or to any other office, a person who can neither read nor write English or French ;
- (g) A Provision for the keeping of a nominal roll of members showing the trade, profession or usual occupation of each member and, if need be, the name of the employers ;
- (h) Provisions for the investment of the funds or their deposit in a bank and for an annual or more frequent audit of accounts;
- (i) provisions for the keeping of full and accurate accounts by the treasurer, the regular audit of such of a statement accounts by persons so empowered and the distribution to members, who so request, of accounts prepared at least once a year by a qualified accountant;
- (j) The procedure of dissolving the union or association, the manner of devolving its assets it being understood that they shall not in any way whatsoever be shared to the members.

## **CHAPTER III**

### **SUNDRY PROVISIONS RESPECTING TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS**

**Section 16:** (1) Every registered trade union and employers' association shall have an office to which all correspondance and notices may be addressed. The address of the said office shall be notified to the registrar within thirty days of its opening and any change of address shall likewise be notified to the registrar within thirty days of the change.

(2) If any registered trade union of employers' association is in operation for three months without having such an office, it shall be liable to the penalty provided under Section 166 of the law.

**Section 17:** Trade unions and employers' associations shall enjoy legal status. They shall have the right to go to law and to acquire movable and immovable property, by way of gift or purpose without authorization.

**Section 18:** (1) Trade unions and employers' associations may :

- (a) exercise in any court the rights reserved to civil action plaintiffs in criminal proceedings, in relation to acts causing direct or indirect prejudice to the collective interest of the trade or occupation which they represent;
- (b) allocate a part of their resources to the buildings of workers' dwelling or the purchase of lands for cultivation or sports grounds for the use of their members ;
- (c) Establish, administer or make grants to institutions serving to trade or occupation such as provident schemes, solidarity funds, laboratories, experimental farming stations, schemes for scientific, agricultural or social education, courses and publications in matters concerning the trade or occupation;  
the movable and immovable property required for their meetings, libraries and vocational instruction courses shall be exempt from attachment;
- (d) make grants to producer or consumer co-operative societies ;

- (e) make contracts or agreements with any other trade unions, employers' associations, companies, undertakings or persons.

(2) If they are so authorized by their rules and on condition that they make no distribution of profits (even by way of rebate) among their members, trade unions and employers' association may also :

- (a) purchase, with a view to hiring out, lending or distribution to their members, anything that is necessary for the trade or occupation, including raw material, tools, implements, machinery, fertilizers, seeds, plants, animals and feed for cattle ;
- (b) provide a free service for the sale of products derived exclusively from the personal labour or holdings of the members, and promote such sale by means of exhibitions, advertisements, publications, group orders and deliveries, but not by carrying out the selling operation in their own name and on their own responsibility.

**Section 19:** An act done by a person duly authorized by a union in furtherance of a trade dispute may be actionable only if it induces some other person to break a contract of employment or interferes with the right of some other person to dispose of his capital or his labour as he wished.

**Section 20:** (1) The representative character of a trade union or employers' association shall, as and when necessary, be established by order of the minister in charge of labor having regard to the following considerations :

- (a) in the case of a trade union, total number of members :
- (b) for an employers' association, the total number of workers employed.

(2) The administrative courts shall be competent to consider any objection raised by a trade union or employers' association against a decision on this matter.

**Section 21:** (1) An employer shall be permitted to deduct from the wages earned by a worker under his control the ordinary trade union contribution due from the worker, provided that the



employer immediately pays the contribution so deducted to the trade union specified by the worker.

(2) The said deduction of contributions at source shall be permitted only :

- (a) if an agreement to that effect has been concluded between the employer concerned and the trade union to which the contributions are to be paid.
- (b) If the worker has agreed with such procedure by signing a form jointly accepted by the employer and the trade union, or if he can neither read nor write, by affixing his finger prints.

(3) In addition :

- (a) The worker's consent may be withdrawn by him at any time ; such withdrawal shall have effect in regard to the month following that in which it is made ;
- (b) The said consent may be renewed by tacit agreement if it is not withdrawn, except in the case of a change in the amount of the contribution ;
- (c) The expense incurred by the employer in deducting and paying over the contributions may be reimbursed by the trade union concerned in accordance with arrangements jointly agreed by the union and the employer.

## **CHAPTER IV**

### **FEDERATIONS OF TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS**

**Section 22:** (1) Trade unions and employers' associations which have been duly established shall be free to act in union for the purpose set out in Section 3 of this law.

(2) They may form federations of any kind and under any name. Such federations shall comply with the provisions of the previous chapters.

(3) The rules of a federation shall determine the manner in which the affiliated trade unions and employers' associations shall be represented at the level of all the organs.

(4) Such federations shall enjoy all the rights and have the benefit of all the protective measures granted to trade unions and employers' associations.

## **PART III**

### **CONTRACTS OF EMPLOYMENT**

#### **CHAPTER I**

#### **INDIVIDUAL CONTRACTS OF EMPLOYMENT**

##### **I - General Provisions**

**Section 23:** (1) A contract of employment shall be an agreement by which a worker undertakes to put his services under the authority and management of an employer against remuneration.

(2) Contracts of employment shall be negotiated freely.

**Section 24:** (1) Irrespective of the place where the contract is made and the place of residence of either party, every contract of employment which is to be performed in Cameroon shall be governed by the provisions of this law.

(2) The above rule shall apply in case of partial performance in Cameroon of a contract initially made under other legislation. It shall not apply, however, to a worker who is sent on secondment for a period not exceeding 6 (six) months.

(3) Subject to the provisions of section 27, the existence of the contract may be recorded in whatever manner the contracting parties find convenient. Any form of evidence may be adduced in proof of its existence.

(4) Written contracts shall be exempted from all stamp and registration fees.

## **II - Conclusion and performance of contracts**

**Section 25:** (1) A contract of employment may be concluded for a specified or unspecified duration.

- (a) A contract of specified duration is a contract whose termination is fixed in advance by both parties. It may not be concluded for a duration of more than (2) two years renewable once.  
The following shall be considered contracts of employment of a specified but non-renewable period :
  - - a contract whose termination is subject to the occurrence, which does not depend exclusively on the will of the parties, of a future but certain event that is precisely indicated;
  - - a contract concluded for the execution of a specified task.
- (b) A contract of an unspecified period is a contract whose termination is not fixed in advance and may be terminated at any time by the will of the worker or the employer, provided that the prior notice referred to in Section 34 below is given.

(2) The contract of foreign workers shall be renewed only after endorsement by the minister in charge of labour.

(3) Contracts of specified duration of Cameroonian workers shall be renewed only once with the same company. At the expiry of such renewal, if working relations continue, the contract shall be transformed into one of unspecified duration.

(4) The above provisions shall not apply to workers recruited to carry out exclusively :

- (a) a temporary job in replacement of an absent worker or one whose contract has been suspended, or the completion of a piece of work within a specific time limit and requiring additional manpower.
- (b) an occasional job aimed at coping with unexpected growth in the activities of the company as a result of certain economic conditions or entailing urgent works to prevent imminent accidents, organizing emergency measures or

repairing company equipment, facilities or buildings which are dangerous for the workers ;

- (c) a seasonal job generated by the cyclical or climatic nature of company activities.

(5) The employment conditions of the workers referred to in preceding paragraph shall be laid down by decree issued after consultation with the National Labour Advisory Board.

**Section 26:** (1) The workers referred to in Section 25 (4) above may be recruited by a temporary job contractor.

(2) A temporary job contractor shall mean any individual or corporate body whose sole activity consists in temporarily providing users with workers whom they recruit and pay.

(3) The workers referred to in the preceding Subsection may be hired only for temporary jobs and solely in the cases laid down in Section 25 (4),

(4) The founding of a temporary job company shall be subject to the prior approval of the minister in charge of labour.

(5) The contract of employment between the temporary job contractor and a worker provided to a user must be written.

(6) Each worker placed at the disposal of a user must conclude a written temporary transfer contract with the temporary job contractor. The duration of such contract shall not exceed 1 (one) year with the same user.

(7) The conditions of implementation of this section shall be laid down by decree issued after consultation with the National Labour Advisory Board.

**Section 27 :** (1) Every contract of employment of specified duration exceeding three months, or requiring the worker to live away from his usual place of residence, shall be written. A copy of the contract shall be forwarded to the Labour Inspector of the area.

(2) A contract of employment concerning a worker of foreign nationality must be endorsed by the Minister in charge of Labour previously to commencement thereof.

(3) The application of endorsement shall be made by the employer. Where such endorsement is refused, the contract shall be null and void.

(4) Where the Minister in charge of Labour fails to announce a decision within the two months immediately following reception of the application for endorsement, the contract shall be deemed to have been endorsed.

(5) The conditions of implementation of this section shall be laid down by decree issued after consultation with the National Labour Advisory Board.

**Section 28 :** (1) There shall be probationary hiring where, prior to signing a final contract, the employer and the worker agree to appraise in particular, the worker's quality of services and his output, as concerns the employer and as concerns the worker, the working, living, wage, safety and hygiene conditions as well as the climate under the employer.

(2) Any probationary hiring must be stipulated in writing. Such hiring shall not be made for a period exceeding that required for trying out newly engaged personnel, taking into account the techniques and practices of the trade or occupation. Under no circumstances shall probationary hiring exceed six months, including any renewal, save in the case of managerial staff for whom the period may be extended to eight months.

(3) The time required for recruitment, travelling, training and probation shall not be included in the maximum duration of the trial period.

(4) The cost of repatriation of displaced workers shall be defrayed by the employer regardless of the reason for termination.

(5) Where the worker's employment is maintained beyond expiry of a probationary hiring contract and here no new contract is made, the parties shall be deemed to have entered into a final contract taking effect from the beginning of the trial period.

(6) An order of the Minister in charge of Labour issued after consultation with the National Labour Advisory Board shall fix the conditions of probationary hiring.

**Section 29 :** (1) The internal regulations shall be drawn up by the company head. They shall deal exclusively with rules relating to the technical organization of work, disciplinary standards and procedure, safety and hygiene at work which are necessary for the proper functioning of the company.

(2) If any other regulations are included (in particular, regulations respecting remuneration) they shall be deemed to be null and void, subject to the provisions of Section 68 (4) of this law.

(3) Before enforcing the internal regulations, the company head shall communicate them to the staff representatives (if any) for their opinion and for endorsement to the Labour Inspector of the area who may order the deletion of or amendment to any provisions which may be repugnant to the laws and regulations.

(4) An order of the minister in charge of labour issued after consultation with the National Labour Advisory Board shall prescribe the procedure for communicating, registering and posting up the internal regulations as well as the number of company workers above which the existence of such regulations shall be compulsory.

**Section 30 :** (1) Employers shall be prohibited from imposing fines.

(2) The only disciplinary penalty entailing loss of wages which an employer may inflict shall be suspension from work with loss of benefits.

(3) Suspension from work shall be null and void unless the following conditions have been met simultaneously ;

- (a) that it shall be for a maximum period of eight working days as from the time the penalty is inflicted ;
- (b) that the worker shall be notified in writing of the suspension and the reasons therefor.
- (c) that the Labour Inspector of the area shall be informed of the suspension within forty-eight hours.

Where the reasons for the suspension are found to be insufficient by the court, the worker against whom the suspension was pronounced shall be paid a compensatory allowance

corresponding to the lost wages, and where applicable, damages, if he adduces proof that as a result of the suspension, he suffered further damages, in addition to his lost wages.

**Section 31 :** (1) The worker shall devote all his gainful activity to the undertaking, save as otherwise stipulated in the contract : provided that he may, unless otherwise agreed, undertake outside his working hours any gainful activity which is not liable to compete with the undertaking or prejudicial to the due performance of the agreed services.

(2) However, it may be stipulated by agreement, between the parties that in the event of a breach of contract, the worker shall not engage, on his own account or on the account of another person, in any activity liable to compete with the employer in either of the following cases ;

- (a) If the contract is broken by the worker and the employer has defrayed the travel expenses from the worker's place of residence to the place of work ;
- (b) If the contract is broken in consequence of a serious offence committed by the worker.

(3) Any such prohibition shall not apply outside a radius of 50 kilometres from the worker's workplace and its duration shall not exceed one year.

### **III - Suspension and Termination of the Contract**

**Section 32 :** A contract of employment shall be suspended :

- (a) if the establishment is closed by reason of the departure of the employer to undertake military service for any reason ;
- (b) during the worker's military service or any period of recall for military service for any reason ;
- (c) during the worker's absence in the case of illness duly certified by a medical practitioner approved by the employer or one belonging to a hospital establishment recognized by the State, for a period not exceeding six months ; this period shall be extended until such time as the worker is replaced ;

- (d) during the period of maternity leave provided for by Section 84;
- (e) during any period of disciplinary suspension of the worker, decided in accordance with Section 30 ;
- (f) during any period of leave for worker's education as defined in Section 91 ;
- (g) during the period of unavailability following an industrial accident or occupational disease ;
- (h) by mutual consent, during the exercise of political or administrative duties following an election or appointment;
- (i) during the period when the worker is under police custody or in preventive detention ;
- (j) during the absence of a worker who has to follow his her spouse who has changed his her usual place of residence if such worker cannot be transferred. The duration shall be limited to two years, which may be renewed by mutual agreement between the two parties.
- (k) during a period of lay-off not exceeding six months. Lay-off shall mean the collective interruption of all or part of the work by the personnel of an undertaking due to accidents or force majeure or an unfavourable economic situation.

**Section 33 :** (1) In each of the cases (a), (b) and (c) referred to in Section 32 above, the employer shall be bound to pay to the worker, if the contract is of unspecified duration, compensation equal either to the compensation in lieu of notice when the period of absence is equal to or exceeds the period of notice, or to the remuneration to which the worker would have been entitled during his absence when the period of absence is shorter than the notice period provided for in Section 34.

(2) In the same cases, if the contract is of specified duration, the compensation shall be granted within the above limits, by reference to the notice provided for contracts of unspecified duration, the length of service being deemed to run from the start of the contract in force. In such case, suspension may not have the effect of extending the term of the contract initially provided for.

(3) In case of lay-off and in the absence of a collective agreement, the conditions for compensation shall be laid down by



order of the Minister in charge of Labour, issued after consultation with the National Labour Advisory Board.

**Section 34 :** (1) A contract of employment of unspecified duration may be terminated at any time at the will of either party. Such termination shall be subject to the condition that previous notice is given by the party taking the initiative of terminating the contract. Notification of termination shall be made in writing to the other party and shall set out the reason for the termination.

(2) The notice period shall start to run from the date of such notification. It shall not be subject to any condition precedent or condition subsequent. Under no circumstances may it be set off against the leave period of the worker.

(3) An order of the Minister in charge of Labour, issued after consultation with the National Labour Advisory Board, shall prescribe the conditions for such notice and its duration, giving regard to the worker's seniority in the enterprise and the occupational group to which he belongs.

**Section 35 :** (1) During the period of notice, the employer and the worker shall be bound to respect all the obligations which each has assumed towards the other.

(2) For the purpose of seeking other employment, the worker shall, during the period of notice, be allowed during each week one day off (with full wages) which may be taken all at once or one hour at a time as he may desire.

(3) Where the above obligations are not respected by one of the parties, no period of notice shall be enforceable on the other party. This provision shall be without prejudice to the right of the injured party to claim damages.

**Section 36 :** (1) Whenever a contract of employment of unspecified duration is terminated without notice or without the full period of notice being observed, the responsible party shall pay to the other party compensation corresponding to the remuneration including any bonuses and allowances which the worker would have received for the period of notice not observed.

(2) Provided that a contract may be terminated without notice in cases of serious misconduct, subject to the findings of the competent court of law as regards the gravity of the misconduct.

**Section 37 :** (1) save in the case of serious misconduct, where a contract of employment of unspecified duration is terminated by the employer, the worker with no less than two successive years of seniority in the enterprise shall be entitled to severance pay distinct from pay in-lieu-of notice which shall be determined giving regard to the worker's seniority.

(2) An order of the Minister in charge of Labour, issued after a recommendation by the National Labour Advisory Board, shall prescribe the conditions for granting and calculating the severance pay.

**Section 38 :** A contract of employment of specified duration may not be terminated prior to its expiry save in the case of gross misconduct, force majeure, or by the written consent of both parties.

**Section 39 :** (1) Every wrongful termination of a contrat may entail damages. In particular dismissals effected because of the opinions of the worker or his membership or non-membership of a particular, trade union shall be considered to be wrongful.

(2) The competent court may ascertain the wrongful nature of the termination by investigating the causes and circumstances thereof. The judgment must expressly mention the reason put forward by the party terminating the contract.

(3) In all cases of dismissal, it shall be up to the employer to show that the grounds for dismissal alleged by him are well-founded.

(4) Damages shall be assessed with due regard to all factors indicating that prejudice has been caused and all factors determining the extent of such prejudice, and in particular, with due regard :

- (a) Where the worker is responsible, to his qualification and post;

- (b) Where the employer is responsible, for whatsoever the type of employment, the worker's seniority with the employer, his age and any vested rights.

However, the damages shall not be less than three months' salary or more than one month's salary per year of service in the enterprise.

(5) If the worker is rightfully dismissed by the employer without respecting the formalities provided for, the amount of damages shall not exceed one month's salary.

(6) The salary to be taken into consideration in above paragraphs shall be the gross average monthly salary of the worker's last twelve months of activity.

(7) These damages shall be distinct from pay in-lieu-of notice and severance pay.

**Section 40 :** (1) The provisions of Section 34 (1) above shall be applicable in the case of dismissal on economic grounds.

(2) Dismissal on economic grounds shall mean any dismissal effected by the employer for one or more reasons not inherent in the person of the worker and resulting from an abolition or transformation of posts or an amendment to the contract of employment consequent on economic difficulties, technological changes or internal reorganization.

(3) To avoid dismissal on economic grounds, the employer who envisages such dismissal shall convene the staff representatives, where available, to seek with them and in the presence of the Labour Inspector of the area, other possibilities such as : reduction of working hours, shift work, part-time work, lay-off, review of various allowances and benefits and even wage cuts.

(4) At the end of negotiations which shall not last more than 30 clear days, and if an agreement is reached, a statement shall be signed by both parties and the Labour Inspector explaining the measures adopted and their periods of validity.

(5) Where a worker states in writing that he does not accept the measures referred to in the above paragraph, he shall be

dismissed with pay in-lieu-of notice and severance pay, where he meets the conditions for enjoyment thereof.

(6)

- (a) Where the parties fail to reach an agreement after the negotiations provided for above, or where notwithstanding the measures envisaged certain dismissals are still necessary, the employer must determine an order of dismissals taking into consideration professional proficiency, seniority in the undertaking and the family responsibilities of workers. In any case, the order of dismissals must give precedence to professional proficiency.
- (b) To obtain the opinions and suggestions of the staff representatives, the employers shall send them the list of workers he intends to dismiss, explaining the criteria used.
- (c) The staff representatives shall be bound to forward their written reply to the employer within no more than eight clear days.
- (d) The employer's notification and the reply from the staff representatives shall immediately be sent to the Labour Inspector of the area for arbitration.

(7) Staff representatives may be dismissed only if their posts have been abolished and with the consent of the Labour Inspector of the area.

(8) In case of a dispute regarding the type or order of dismissals, the onus of proof shall rest with the employer.

(9) A dismissed worker shall have prior claim, with equal professional proficiency, to employment in the same establishment for a period of two years.

(10) An order of the Minister in charge of Labour issued after consultation with the National Labour Advisory Board shall determine the terms and conditions of enforcement of the present section.

**Section 41** : In the event of termination of the contract subject to the provisions of Section 27 (2) the employer shall be required to so notify the authority which endorsed the contract within 15 days.

## **Section 42 : (1)**

- (a) In the event of any change in the legal statutes of the employers, in particular through succession, sale, amalgamation, financial reorganization, or transformation into a partnership or company, all contracts of employment in force on the date of the change shall subsist between the new organization and the personnel of the undertaking. They shall be terminable only in the manner and subject to the conditions laid down in this Part.
- (b) The provisions of the above paragraph shall not be applicable :
  - - where the enterprise is changing its activities ;
  - - where the workers express before the Labour Inspector of the area, their desire to be laid off with payment of their benefits, prior to such change.
- (c) The closure of the undertaking other than in cases of "force majeure" shall not absolve the employer from his obligation to observe the rules laid down in this part. Neither bankruptcy nor liquidation by court order shall be deemed to be a case of "force majeure".

(2) The contract of employment, may, while still in force, be amended on the initiative of either party.

- (a) Where the amendment suggested by the employer is substantial and is rejected by the worker, the termination of the contract that may result therefrom shall be the responsibility of the employer. Such termination shall be wrongful only where it is not justified by the interest of the undertaking.
- (b) Where the amendment suggested by the worker is substantial and is rejected by the employer, the contract may be terminated only following the resignation of the worker.

**Section 43 :** Unless otherwise agreed, the provisions of Sections 34 to 42 shall not apply to probationary hiring contracts which shall be terminable without notice and without either party having a claim to compensation.

**Section 44 :** (1) On the expiry of the contract of employment, regardless of the reason for its termination, the employer shall

serve to the worker at the time of his departure a certificate stating only the dates of his arrival and departure and the types and dates of the various posts he has held.

(2) The said certificate shall be exempt from stamp duties and registration fees, even if it contains the phrase "free of all engagements" or other phrase not constituting a bond or a receipt.

## **CHAPTER II - APPRENTICESHIP**

**Section 45 :** A contract of apprenticeship is a contract whereby the head of an industrial, commercial or agricultural establishment of a craftsman undertakes to give or cause to be given to another person complete and systematic training and whereby the latter undertakes in return to obey the instructions which he receives and to perform the tasks assigned to him for the purpose of his apprenticeship.

**Section 46 :** Any such contract which is not made in writing shall be null and void. Such contract shall be exempt from all stamp duties and registration fees.

**Section 47 :** The conditions as to form and substance, the effect of the contract, the circumstances and consequences of termination and the measures of ensuring performance shall be specified by a decree issued after consultation with the National Labour Advisory Board.

## **CHAPTER III - SUBCONTRACTORS**

**Section 48 :** A subcontractor shall be a person who enters into a written contract with a contractor to carry out a specified piece of work or supply specified services for an agreed price. The subcontractor shall himself recruit the necessary workers.

**Section 49 :** (1) Where the work is carried out in the workshops or other business premises of the contractor, he shall, where the subcontractor becomes insolvent, assume the subcontractor's obligations towards the workers.

(2) Where the work is carried out a place other than the workshop or other business premises of the contractors, he shall, if the subcontractor becomes insolvent, be responsible for payment of the workers' wages.

(3) An aggrieved worker shall, in the above case, have the right to institute direct action against the contractor.

(4) However, the provisions of Sub-sections (1), (2) and (3) above shall not apply where the subcontractor is registered in the trade register and holds a valid business licence.

**Section 50 :** (1) The subcontractor shall, in a notice permanently displayed in all the workshops or other business premises where work is being carried out, indicate that he is a subcontractor and give his full name and address, the name and address of the contractor who entrusted him with the work and the working hours.

(2) The display of such notice shall be compulsory even if the work is carried out in the workshops or other business premises of the contractor.

**Section 51 :** A contractor shall keep an up-to-date list of the subcontractors with whom he has signed contracts.

## **CHAPTER IV - COLLECTIVE AGREEMENTS AND COMPANY AGREEMENTS**

**Section 52 :** (1) A collective agreement is an agreement intended to regulate labour relations between employers and workers either of an enterprise or group of enterprises or of one or more branches of activity. This agreement shall be concluded between :

- - The representatives of one or more trade unions or a federation of trade unions on the one hand ; and
- - The representatives of one or more employers' associations or any other group of employers or one or more employers acting individually on the other hand.

(2) A collective agreement may contain more favourable to workers than those of the law and regulations in force. It shall not impair provisions relating to matters of public policy.

(3) Each collective agreement shall define its scope of application which may be national, interdivisional or local.

(4) The text of every collective agreement shall be published free of charge in the Official Gazette by the minister in-charge of employment as soon as he has been notified that it has been deposited at the registry of the competent court.

(5) Before such publication, the minister in charge of employment may invite the contracting parties to amend or delete any provisions of the said text which may be repugnant to existing laws and regulations.

**Section 53 :** (1) At the request of one of the most representative trade-unions or employers' associations or on the initiative of the minister in-charge of employment, the provisions of a collective agreement which complies with conditions laid down by regulations may, by a decree issued after the National Labour Advisory Board has given its reasoned opinion, be rendered compulsory for all employers and workers within the industrial and territorial coverage of the said agreement.

(2) Such extension of the rights and obligations provided under a collective agreement shall apply for the period and on the conditions laid down in the said agreement.

(3) However, the extension decree may, after the National Labour Advisory Board has given its reasoned opinion and without altering the general effect of the agreement, exclude from such extension any clauses which are not in keeping with the conditions of the particular branch of activity in the scope of the agreement concerned.

**Section 54 :** (1) The extension decree shall cease to have effect when the collective agreement of which it refers is no longer enforceable between the parties as a result of its termination.

(2) At the requests of one of the signatory parties or on the initiative of the minister in-charge of employment, such decrees



may, after the National Labour Advisory Board has given its reason opinion, be revoked so as to terminate the extension of the collective agreement or any of its provisions whenever it appears that the agreement or the provision in question is no longer in keeping with the conditions of the branch of activity in the territorial coverage concerned.

**Section 55 :** In case of the absence or inadequate organisation of trade-unions or employers' associations resulting in the continuing impossibility to conclude a collective agreement in a given branch of activity or for a given occupation a decree issued after consultation with the National Labour Advisory Board may either regulate working conditions and determine the classification of occupations and the minimum wage for that branch or occupation or render wholly or partly applicable to it, the provisions of a collective agreement in force in a branch of activity within the same economic sector.

**Section 56 :** (1) Every decree to provide for or revoke the extension of a collective agreement shall be preceded by consultation with trade-unions and employers associations and with all persons concerned who shall present their observations within 30 (thirty) days.

(2) The terms and conditions of such consultation shall be laid down by a decree issued the opinion of the National Labour Advisory Board.

**Section 57 :** (1) Agreements concerning one or more specified establishment may be made between an employer or group of employers on the one hand, and representatives of the trade-unions which are most representative of the personnel of the establishment(s) concerned on the other hand.

(2) The object of company agreement shall be to adapt the provisions of collective agreements to the particular conditions of the establishment(s) under consideration, especially the conditions of award and methods of calculation of the incentive wage, individual or group production bonuses and productivity bonuses.

(3) Company agreements may include new provisions and clauses which are favorable to the workers.

(4) In the absence of a collective agreement, a company agreement may deal only with wages and subsidiary allowances.

**Section 58 :** Where the workers in any public or semipublic enterprise or establishment are not subject to any special laws or regulations, collective agreements may be concluded in their regard in accordance with the provisions of this chapter.

**Section 59 :** Wherever a collective agreement is extended by decree, the said agreement shall apply to the public and semi-public enterprises or establishments referred to in Section 58 above which, by reason of their nature and activity, fall within the scope of the agreement.

**Section 60 :** Rules as to form and substance regarding the conclusion and performance of the collective agreements and company agreements shall be laid down by decree issued after consultation with the National Labour Advisory Board.

## **PART IV - WAGES**

### **CHAPTER I - DETERMINATION OF WAGES**

**Section 61:** (1) In this law, "wages" means remuneration or earnings, however designated or calculated, capable of being evaluated in terms of money and fixed by mutual agreement or by the provisions or regulations or collective agreements which are payable by virtue of a contract or employment by an employer to a worker for work done or to be done or for services rendered or to be rendered.

(2) For the same type of work and level of proficiency, workers shall be entitled to the same remuneration, irrespective of their origin, sex, age, status and religion, subject to the provisions of this section.

(3) Apart from the cases provided for by the regulations or collective agreement in force and except where there is agreement between the parties concerned, no wage shall be paid to a worker in case of absence.

**Section 62 :** (1) A decree issued after consultation with the National Labour Advisory Board shall determine the guaranteed minimum industrial and commercial wage.

(2) Occupational categories and wages applicable to such categories shall be determined through negotiation within the framework of the collective agreements or company agreements provided for in Part III of this law.

**Section 63 :** The rates of remuneration for piecework shall be so calculated that it provided a worker of average capacity, working normally, with a wage at least equal to that of the worker engaged in similar work and paid by unit of time.

**Section 64 :** The minimum wage rates and the conditions of remuneration for piecework shall be posted up in the places where workers are paid.

**Section 65 :** (1) When the remuneration of a worker's services consists in whole or in part of commissions or sundry bonuses and allowances or compensation in lieu of such allowances, such remuneration, in so far as it does not constitute a refund of expenses, shall be taken into a account in calculating remuneration during paid holidays, pay in-lieu-of notice and damages.

(2) The amount to be taken into consideration for this purpose shall be the monthly average of the items referred to in sub-section 1 above.

(3) The period in respect of which the calculation is made shall not exceed the twelve months of service preceding the cessation of work.

**Section 66 :** (1) An employer shall be bound to provide housing for any worker he has transferred in order to perform a contract of employment necessitating the installation of such worker outside his normal place of residence. Such accommodation shall be adequate and correspond to the family status of the worker, and shall satisfy the conditions to be determined by order of the minister in charge of Labour issued after consultation with the National Labour Advisory Board.

(2) If no housing is provided, the employer shall be bound to pay the worker concerned a housing allowance. The minimum rate and methods of payment shall be fixed by the above-mentioned order.

(3) The employer shall be bound to ensure a regular supply of foodstuffs for any worker and his family to whom he provided accommodation where such a worker cannot produce such foodstuffs himself. Such supply of foodstuffs shall be subject to payment at a value to be determined by the order referred to above.

(4) The facilities provided for in this section shall not be claimable when wages are not due, except as may be provided in the regulations in force, or stipulated by mutual agreement between the parties concerned.

## **CHAPTER II - PAYMENT OF WAGES**

### **I - Mode of payment**

**Section 67** : Apart from the facilities provided for in Section 66 above, wages shall be payable in legal tender and any other method of payment shall be unlawful. Any stipulation to the contrary shall be null and void.

**Section 68** : (1) Save in the case of trades and occupations where the established custom is to provide for a different frequency of payment, which trades and occupations shall be specified by an order of the minister in charge of labour issued after consultation with the National Labour Advisory Board, wages shall be paid at regular intervals not exceeding one month.

However, workers may, at their request, receive at the end of fifteen days a payment on account equal to half the monthly amount of their basic remuneration and in such case the balance due to them shall be settled at the time of the following payment.

(2) Monthly payments shall be made not later than eight days following the end of the month of employment in respect of which the wages are due.

(3) Upon the termination of the contract of employment, a final settlement of all wages and allowances shall be effected as soon as the employment ceases.

However, in disputed cases the employer may obtain authorization from the President of the competent court to retain provisionally all or part or any attachable portion of the amount payable.

(4) Workers absent on pay day shall be entitled to draw their wages during the normal hours of opening of the pay office in accordance with the internal regulations of the enterprise.

(5) Wages shall be paid on working days only at or near the work-place. Wages may not be paid in a public house or in a shop or store except in the case of workers who are normally employed there.

**Section 69 :** (1) Payment of wages shall be evidenced by a document made out or certified by the employer or his representative and initialled by each worker or by two witnesses if the worker can neither read nor write English or French . These documents shall be preserved by the employer in the same manner as accounting documents and shall be made available, upon demand, to Inspectorate of Labour.

(2) The employer shall, at the time of payment, give the worker an individual pay voucher in the form prescribed by order of the minister in charge of labour issued after consultation with the National Labour Advisory Board.

(3) The fact that a worker has signed and entry of the words "in full settlement" or any similar expression either during the performance of his contract of employment or after termination whereby he purports to waive all or part of his rights under the contract of employment shall not be admitted as evidence of satisfaction.

(4) Acceptance of the pay voucher by the worker without protest or reservation shall not be considered as a remuneration by him of payment of all or any part of any wages, allowances or supplementary payments which are due him by virtue of laws, regulations, agreements or contractual provisions. Such

acceptance shall not suspend the barring of an action of recovery as laid down in Section 74, nor shall it prevent review of the worker's wage account.

## **II - Privileges and guarantees of wage claims**

**Section 70 :** (1) Up to the limit of the percentage of wages not liable to attachment as provided for by the laws and regulations in force wage claims shall be preferred claims having priority over all other general or special or preferential claims.

(2) The priority of claims shall extend to compensation due for breach of contract and to the damages referred to in Section 39.

**Section 71:** Special laws affording direct action or special preferential claims to certain categories of workers shall apply to wage claims.

**Section 72 :** In the event of liquidation or bankruptcy, the sums withheld by the Treasury, after cessation of payments, from payment warrants due to the employer shall be paid into the assets.

**Section 73 :** (1) In the same event, a worker housed in accommodation provided by the employer before commencement of liquidation or bankruptcy proceedings shall be entitled to it under Section 66.

(2) Such a worker shall be granted legal aid, without other conditions, as regards any application for an attachment order which he may think fit to make to the competent court.

## **III - Limitation of action of recovery of wages**

**Section 74 :** (1) Action for the recovery of wages shall be barred by limitation after three years. As regards limitation, any compensation due for breach of contract of employment shall be deemed to be wages.

(2) Limitation shall start to run from the date on which wages fall due. It shall cease to run either in case of a written claim by the worker to the Inspector of Labour concerning payment of wages or in case of making up of account, private acknowledgment of

debt, authentic deed of acknowledgement of debt or unexpired summons.

### **CHAPTER III - DEDUCTIONS FROM WAGES**

**Section 75 :** (1) Apart from compulsory levies, reimbursement of the value of any facilities provided in conformity with the provisions of Section 66 (3) and any deposits which may be stipulated in collective agreements or individual contracts, no deductions from wages shall be permissible save in the following circumstances :

- (a) Where there is a court order of attachment;
- (b) in application of the provisions of Section 21 of this law ;
- (c) by voluntary assignment to which the worker has subscribed in person and notified for verification to the Inspector of Labour of his place of residence in the case of repayment of cash advances made by the employer to the worker, and before the president of the competent court in other cases ;
- (d) where a friendly society providing for payment of contributions by the workers has been instituted within the framework of the laws and regulations in force.

(2) Payment on account in relation to work in progress shall not be considered as advances.

(3) Any stipulation in a collective agreement or individual contract authorizing other levies shall be null and void.

(4) Any sum withheld from a worker in violation of the above provisions shall bear interest payable to him at the statutory rate from the date at which it should have been paid and may be claimed by him until the right is barred by limitation ; effluxion of the limitation period shall be suspended during currency of the contract of employment.

**Section 76 :** (1) A decree issued after consultation with the National Labour advisory Board shall determine the portions of wages which may be liable to progressive levies and the rates of such levies. Deductions made under the preceding section shall

determine the portions of wages which may be liable to progressive levies and the rates of such levies. Deductions made under the preceding section shall not exceed, at each wage payment, the percentage established by this decree.

(2) In the calculation of deductions, regard shall be had not only to the wages proper but also to all payments supplementary thereto, excepting the allowances specified as unattachable by the rules and regulations in force, sums payable by way of reimbursement of expenses incurred by the worker and any benefits due under the social insurance legislation or regulations issued thereunder.

**Section 77 :** It shall be unlawful for employers to restrict in any way a worker's freedom to dispose of his wages as he thinks fit.

## **CHAPTER IV - COMPANY STORES**

**Section 78 :** (1) The term "company store" means any arrangement whereby an employers directly or indirectly sells or supplied goods the workers in his employment for their normal personal requirements.

(2) A company store shall be permitted to operate provided that the following four conditions are met;

- (a) the workers are free to obtain their supplies there or not.
- (b) the goods are sold for immediate cash payment and without profit;
- (c) the accounts of the company store or stores are kept entirely separate and are subject to inspection by a supervisory committee elected by the workers ; and
- (d) neither alcohol nor spirituous liquors are offered for sale.

**Section 79 :** (1) The opening of a company store as provided for in Section 78 shall be subject to a declaration lodged with the local Inspector of Labour.

(2) The operation of any company store shall be subject to inspection by the Inspector of Labour who may, on discovery of



any abuse, order the closing of the store for a period not exceeding one month.

In the event of a second offence, the store shall be permanently closed by order of the minister in charge of labour on the proposal of the local Inspector of Labour.

## **PART V - CONDITIONS OF EMPLOYMENT**

### **CHAPTER I - HOURS OF WORK**

**Section 80 :** (1) Statutory hours of work in all public and private non-agricultural establishments may not exceed forty hours per week.

(2) In all agricultural and allied undertakings, the hours of work shall be based on a total of two thousand four hundred hours per year, within the maximum limits of forty-eight hours per week.

(3) The above provisions shall apply to all workers, irrespective of age and sex and irrespective of the mode of payment.

(4) Decrees issued after consultation with the National Labour Advisory Board shall determine the circumstances under which exemptions from compliance with the statutory hours of work are authorized, as well as the conditions governing the performance and remuneration of overtime giving rise to extra pay.

### **CHAPTER II - NIGHT WORK**

**Section 81 :** Any work done between ten p.m. and six a.m. shall be considered as night work.

**Section 82 :** (1) the rest period for women and children shall be not less than 12 (twelve) consecutive hours.

(2) Night work in industries shall be prohibited for women and children.

(3) This prohibition shall not apply to :

- (a) women with executive duties ;
- (b) women working in services not involving manual labour.

(4) The procedure for implementing this section shall determined by order of the minister in charge of labour, issued after consultation with the National Labour Advisory Board.

### **CHAPTER III - EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN**

**Section 83 :** An order by the Minister in charge of labour, issued after consultation with the National Commission on Industrial Hygiene and safety provided for under Section 120, shall specify the types of tasks which women and pregnant women respectively shall not perform.

**Section 84 :** (1) Any pregnant woman whose pregnancy has been medically certified may terminate her contract of employment without notice and without being obliged on that account to pay the compensation provided for in Section 36 above. During such period, the employer shall not terminate the employment contract of the woman concerned because of the pregnancy.

(2) Every pregnant woman shall be entitled to 14 (fourteen) weeks of maternity leave starting 4 (four) weeks before the due date of confinement. Such leave may be extended by 6 (six) weeks in case of a dully certified illness resulting either from the pregnancy or confinement. During such leave, the employer shall not terminate the employment contract of the woman in question.

(3) Where the confinement occurs before the due date, the rest period shall be extended so that the worker receives the full 14 (fourteen) weeks of leave to which she is entitled.

(4) Where the confinement occurs after the due date, leave taken before may be extended to the date of confinement without such extension leading to the reduction of the postnatal leave.

(5) Apart from the various benefits provided for by legislation in matter of social and family welfare, the woman shall be entitled,

during the maternity leave, to a daily allowance, payable by the National Social Insurance Fund and equal to the amount of the wages, actually received at the time of suspension of the employment contract ; she shall retain the right to benefits in kind.

**Section 85 :** (1) For a period of 15 (fifteen) months following the birth of the child the mother shall be entitled to nursing breaks.

(2) The total duration of the breaks shall not exceed 1 (one) hour per working day.

(3) During the said period, the mother may terminate her contract of employment without notice under the conditions laid down under Section 84 (1) above.

**Section 86 :** (1) No child shall employed in an enterprise even as an apprentice before the age of 14 (fourteen) years, except as otherwise authorized by order of the minister in charge of labour, taking account of local conditions and the jobs which the children may be asked to do.

(2) An order of the minister in charge of labour shall determine the conditions for the hiring, employment and supervision of the employment of young persons on board ship, provided :

- (a) that a young person under 18 (eighteen) years of age may in no case be employed on board ship as a trimmer or stocker, and
- (b) that when children and young persons under 18 (eighteen) years of age are to be embarked on ships other than those on which only members of the same family are employed, they shall be medically examined to ascertain their fitness for work on board ship and a medical certificate shall be made out attesting fitness for such work and signed by an approved medical practitioner.

(3) An order of the minister in charge of labour shall specify the types of work and categories of enterprises in which young people shall not be employed, and the age-limit to which the prohibition shall apply.

(4) The orders referred to in the above sub-sections shall be issued after consultation with the National Commission on Industrial Hygiene and Safety.

**Section 87 :** (1) The Inspector of Labour of the area may order women and children to be examined by an approved medical practitioner in order to ascertain that the work allotted to them is not beyond their strength. Such order shall be automatic if requested by the woman or child.

(2) A woman or child shall not be kept on any job which has been so found to be beyond their strength and shall be transferred to more suitable work. If this is impossible, the contract shall be terminated without notice and without either party being responsible.

## **CHAPTER IV - WEEKLY REST**

**Section 88 :** Weekly rest shall be compulsory. It shall consist of at least 24 (twenty-four) consecutive hours each week. Such rest shall fall as a rule on Sundays and may under no circumstances be replaced by a compensatory allowance.

(2) An order by the minister in charge of labour, issued after consultation with the National Labour Advisory Board, shall prescribe the procedure for applying the preceding sub-section.

## **CHAPTER V - LEAVE AND TRANSPORT**

### **I- Leave**

**Section 89 :** (1) In the absence of more favourable in the collective agreement or individual employment contract, paid leave at the employer's expense shall accrue to the worker at the rate of one and a half working days for each month of actual service.

(2) Any period equivalent to 4 (four) weeks or 24 (twenty-four) days of work shall be deemed to be 1 (one) month of effective service.

(3) For the calculation of leave, periods of effective service shall be :

- (a) Periods of unavailability due to industrial accident or occupational disease;
- (b) Absences, not exceeding 6 (six) months, stemming from illness duly certified as provided for under Section 32 above :
- (c) Maternity leave provided for under Section 84 above;
- (d) Lay-offs as provided for under Section 32 above.

(4) A maximum of 10 (ten) days per year of paid special leave of absence, not deductible from annual leave, shall be granted to workers on the occasion of family events directly concerning their own home. A decree issued after consultation with the National Labour Advisory Board shall determine the procedure for implementing this sub-section.

**Section 90 :** (1) For young persons under 18 (eighteen) years of age, leave shall accrue at the rate of two and a half days instead of one and a half days per months of service.

(2) For mothers, the leave shall be increased by either 2 (two) working days for each child under 6 (six) years of age on the date of the departure on leave who is officially registered and lives in the home, or 1 (one) day only if the mother's accrued leave does not exceed 6 (six) days.

(3) The leave shall be increased depending on the workers length of service in the enterprise by 2 (two) working days for each full period whether continuous or not of 5 (five) years of service. For mothers, this increase shall be additional to the one provided for under the sub-section above.

(4) Leave which exceeds 12 (twelve) working days may be split up by mutual consent of the parties. In this case, one of the portions of leave must be at least 12 (twelve) continuous working days.

**Section 91 :** (1) Unpaid leave, whose duration shall not be deducted from the annual paid leave, may be granted, at his request, to a worker or apprentice who wishes to attend a course exclusively devoted to workers' education or trade union training

and organized either by a centre attached to a worker's trade union organization recognized as representative at the national level or by an organization, institution or agency specially approved to this effect by the Minister in charge of Labour.

(2) The duration of the said leave which may be split up shall be agreed upon by both parties. The leave, which shall not exceed 18 (eighteen) working days, shall be deemed to be a period of actual service for the calculation of the worker's paid leave, family allowances and length of service in the enterprise.

**Section 92 :** (1) Leave shall have accrued after a period of actual service of 1 (one) year.

(2) Provided that collective agreement or individual contracts providing for leave longer than that determined by section 89 may stipulate that the leave shall have accrued after a longer period of actual service, but such period may not exceed 2 (two) years.

(3) Entitlement to leave shall be barred by limitation 3 (three) years after the day on which employment is terminated.

(4) If the contract is terminated or expires before the worker has exercised his right to leave, he shall receive compensation in lieu thereof, based on the entitlement which has accrued under Section 89 and 90 above.

(5) Since leave is granted to the worker so that he may be able to rest, payment of compensation in lieu of leave shall be prohibited in all other cases.

**Section 93 :** The employer shall pay the worker, not later than the last day preceding the date of departure on leave, an allowance which shall be determined in a manner laid down by decree, issued after consultation with the National Labour Advisory Board.

## **II - Transport**

**Section 94 :** (1) Where, because, of the employer, performance of the employment contract requires or has required a worker to move from his usual residence, the employer shall be responsible

for the travelling expenses of the worker, his spouse and minor children normally residing with him, as well as for the transport of their luggage.

(2) Travel and transport expenses are allowances in kind and shall therefore be provided only in case of actual travel by the worker and his family.

(3) The conditions of implementing the above provisions shall be determined by decree issued after consultation with the National Labour Advisory Board.

(4) A worker who has terminated his service and is waiting for the means of transport selected by the employer in order to return to his usual residence shall retain the right to benefits in kind and shall receive from the employer an allowance equal to the remuneration which he would have received, had he continued to work.

(5) Entitlement to travel and transport expenses shall be barred by limitation 3 (three) years after the day on which employment is terminated.

## **PART VI - SAFETY AND HYGIENE AT THE WORKPLACE**

### **CHAPTER I - SAFETY**

**Section 95 :** (1) Hygiene and safety conditions at the workplace shall be determined by orders of the Minister in charge of labour, issued after consultation with the National Commission on Industrial Hygiene and Safety.

(2) The said orders, while taking local conditions and contingencies into account, shall aim at securing for the workers standards of hygiene and safety conforming with those recommended by the international Labour Organization and other Internationally recognized technical bodies.

(3) They shall specify the cases and circumstances in which Labour Inspectors or the occupational Health Doctors shall have recourse to the procedure of serving formal notice on the

employer. However, where there is an impending threat to the health and safety of workers, the Labour Inspector or the occupational Health Doctor shall order immediately enforceable measures to be taken.

**Section 96 :** (1) Where working conditions endangering the safety or health of the workers but not covered by orders referred to in Section 95 are found to exist, the Labour Inspector or the occupational Health Doctor shall request the employer to remedy the situation. If the employer objects, the dispute shall be referred to the National Commission on Industrial Hygiene and Safety which shall give a ruling.

(2) In all cases, the Labour Inspector or the Occupational Health Doctor shall report to the said Commission on working conditions which are deemed to be dangerous, in order that appropriate regulations may, if necessary, be prepared.

**Section 97 :** (1) It shall be forbidden to bring alcoholic beverages to the workplace and to consume them within the establishment during working hours.

(2) Consumption of such beverages within the establishment may be authorized only during normal break periods and exclusively within the canteens and refectories placed at the disposal of workers by the employer.

(3) The employer shall supply water and non-alcoholic beverages at the workplace and during working hours. Such beverages shall be controlled occasionally by the Labour Inspector or the Occupational Health Doctor.

(4) The procedure for implementing the above measures shall be determined, where necessary, by orders of the minister in charge of labour, issued after consultation with the National Commission for Industrial Hygiene and Safety.

## **CHAPTER II - HEALTH SERVICES**

**Section 98 :** (1) Every enterprise and establishment of any kind, public or private, lay or religious, civilian or military, including



those where persons are employed in connection with work in the professions and those belonging to trade unions or professional associations, shall provide medical and health services for their employees.

(2) The functions of such services shall be to supervise conditions in respect of hygiene in the establishment, the risks of contagion and the state of health of the workers, and of their spouses and children if housed by the employer as well as to take the appropriate preventive measures and provide the necessary medical care in accordance with the provisions of this chapter.

(3) The conditions under which workers and their families may benefits from health coverage shall be laid down by order of the minister in charge of labour, issued after consultation with the National Commission for Industrial Hygiene and Safety.

**Section 99 :** (1) The medical and health service shall be under the responsibility of medical doctors who shall be recruited preferably from among practitioners holding diplomas in industrial medicine and who shall be assisted by qualified paramedical personnel.

(2) All persons so employed shall have been previously approved by a decision of the minister in charge of labour issued after consultation with the Minister of Public Health, in case of paramedical personnel, consultation with the medical association, in case of doctors. Approval requirements shall be fixed by joint order of the minister in charge of labour and the minister in charge of public health.

(3) According to the size and nature of the establishment, its location and the medical infrastructure available, the medical and health service shall be organized :

- (a) Either in the form of a separate service within the establishment concerned, or in the form of a joint service for several establishments ;
- (b) Or on the basis of an agreement made with a public or private hospital.

(4) The procedure for the setting up, organization and functioning of medical and health services as well as the number and the

qualifications of the medical and paramedical personnel to be employed in each establishment, having regard to local conditions and to the number of workers and of workers' dependents, shall be determined by order of the Minister in charge of Labour issued after consultation with the National Commission for Industrial Hygiene and Safety.

**Section 100 :** (1) Without prejudice to the special measures taken for purposes of hygiene and for the prevention of certain occupational diseases or the protection of certain categories of workers, all workers shall undergo a medical examination prior to engagement.

(2) Workers shall also be subject to medical supervision throughout their career.

(3) Orders by the Minister in charge of Labour issued after consultation with the National Commission for Industrial health and Safety shall determine the procedure regarding the medical examinations to be performed before and after engagement.

**Section 101 :** (1) Where a worker or workers' spouse(s) or child (children) housed by the employer under the conditions stipulated in Article 66 above falls ill, the employer shall provide medical care and the necessary medicaments and accessories, within the pecuniary limits determined by order of the Minister in charge of Labour issued after consultation with the National Commission for Industrial Hygiene and Safety.

(2) The employer shall also be required to provide board for every sick worker detained in the infirmary at his establishment.

**Section 102 :** (1) The employer shall arrange for the removal to the nearest medical unit of any sick or injured person fit to be moved who cannot be treated with the facilities at the employer's disposal.

(2) If the employer has not suitable transport immediately available for the above purpose, he shall without loss of time the head of the nearest administrative unit, who shall cause the patient to be removed by transport at his disposal.

(3) Where the sick or injured persons are not fit to be moved, the administrative authority notified by the employer shall arrange for medical care to be provided on the spot.

(4) All costs incurred by the Administration in this connection shall be repaid by the employer at the official rates.

**Section 103 :** An order of the minister in charge of labour, issued after consultation with the National Commission for Industrial Hygiene and Safety, shall determine the circumstances in which employers are required to set up medical services, and to provide these with medicaments and accessories.

## **PART VII - ADMINISTRATIVE BODIES AND MEASURES OF IMPLEMENTATION**

### **CHAPTER I - LABOUR AND SOCIAL INSURANCE ADMINISTRATION**

**Section 104 :** (1) The Labour and Social Insurance Administration comprises all services responsible for matters relating to the condition of workers, labour relations employment, manpower, movements, vocational guidance and training, placement, the protection of workers' health as well as social insurance problems.

(2) A decree shall determine the organization and functioning of such services.

#### **I - Duties and Prerogatives of Labour and Social Insurance Inspectors**

**Section 105 :** (1) By "Labour and Social Insurance Inspector", referred to in this law as a "Labour Inspector", we mean any civil servant of the labour administration corps placed at the head of a labour and social insurance inspectorate or his delegate.

(2) Labour Inspectors shall be civil servants enjoying job security virtue of their status and conditions of service.

(3) In order that their independence may be ensured, the said inspectors shall have no interest whatsoever in the enterprises under their supervision.

**Section 106 :** (1) The Labour Inspectors shall swear to carry out their duties well and faithfully and not to reveal, even after leaving the service, any manufacturing secrets or other processes with which they may have become acquainted in the course of their duties.

(2) The oath shall be taken once only before the court of appeal of the area of their first posting.

(3) Every violation of the oath shall be subject to penalties.

(4) The Labour Inspectors shall treat as absolutely confidential the source of any complaint bringing to their notice a defect in the installation or a breach of legal and statutory provisions and shall give no intimation to the employer or his representative that a particular inspection was made in consequence of a complaint.

**Section 107 :** (1) Labour Inspectors who are heads of Inspectorates shall have the initiative with respect to their tours of inspection and inquiries within the framework of labour legislation and regulations in force.

(2) They shall have permanently at their disposal the human and material resources necessary for performance of their duties.

**Section 108 :** (1) Labour Inspectors with the proper credentials shall be empowered :

- - to enter any establishment liable to inspection, freely and without warning at any time of the day or night, for the purpose of inspection ;
- - to enter for the purpose of inspection any infirmary of an establishment or any canteen, sanitary installation or any facility supplying workers with water.
- - to carry out any examination, control or inquiry which they consider necessary to ascertain that the laws regulations in force are strictly complied with and, in particular:
- - to interrogate, alone or in the present of witnesses, the employer or the staff of the enterprise on any matters

concerning the application of the laws and regulations in force ;

- - to ask for any books, registers and documents the keeping of which is prescribed by laws or regulations relating to conditions of employment, in order to ensure that they conform with the laws and regulations in force and to copy such documents or make extracts from them;
- - to enforce the posting of notices where this is required by the laws and regulations in force ;
- - to take and carry away for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples taken and carried away for such purpose.

(2) Labour Inspectors shall notify the employer or his representative of any inspection visit unless they consider that such notification may be prejudicial to the effectiveness of the inspection.

**Section 109** : (1) Labour Inspectors may record in official reports having the force of prima facie evidence, any infringement of labour laws and regulations.

They shall be empowered to take direct legal action before the competent court against any persons infringing the provisions of this law and its implementation instruments ;

(2) The terms and conditions under which Labour Inspectors shall exercise their powers of control shall, as and when necessary, be laid down by regulations.

**Section 110** : (1) In military establishments employing civilian labour, the powers and responsibilities of inspectors concerning the monitoring of the application of labour laws and regulations may be conferred upon officials or officers specially appointed for that purpose whenever the interests of national defence preclude the admittance of personnel not belonging to the establishments concerned.

(2) Such appointments shall be made by the President of the Republic on the joint proposal of the minister in charge of defence and the minister in charge of labour.

(3) In any case, persons exercising such monitoring functions shall immediately inform the local labour inspector of any action taken by them.

**Section 111** : For execution of the duties entrusted to the Labour Medical Inspectorate, the medical inspectors of labour shall have the same obligations rights and prerogatives as those conferred on Labour Inspectors by Section 106, 107, 108 and 109 of this law.

## **II - Placement**

**Section 112** : (1) Placement shall come under the jurisdiction of the minister in charge of labour.

(2) Placement operations shall be carried out free of charge for workers either by :

- (a) government services or bodies ;
- (b) offices or agencies opened by trade unions, employers' associations or private bodies.

(3) The opening of the offices or agencies referred to in Sub-section 2(b) above shall be subject to the prior approval of the minister in charge of labour.

(4) A decree issued after consultation with the National Labour Advisory Board shall determine the conditions for the implementation of this section.

**Section 113** : In order to ensure full employment of national labour force, decrees issued after consultation with the National Labour Advisory Board shall limit the employment of workers of foreign nationality in certain occupations or at certain levels of professional qualifications.

## **CHAPTER II - MEASURES OF CONTROL**

**Section 114** : (1) Every person who opens or re-opens an enterprise or establishment of any kind shall submit a declaration thereof to the local labour inspectorate. The same rule shall apply in case of change or discontinuance of business or transfer.

(2) An order of the minister in charge of Labour issued after consultation with the National Labour Advisory Board shall lay down the conditions under which such declarations shall be made.

**Section 115 :** Every employer, whether public or private and irrespective of the nature of this activity, shall furnish the local labour inspectorate and the services in charge of employment with detailed information concerning the situation of the manpower employed by him. Such information shall be in the form of a declaration, the frequency and conditions of submission of which shall be determined by order of the minister in charge of labour issued after consultation with the National Labour Advisory Board.

**Section 116 :** (1) The employer shall maintain at the workplace and keep constantly up to date a register called the "employer's register" which shall record such information as will enable the labour and social insurance services to exercise control over the minister in charge of labour.

(2) An order issued after consultation with the National Labour Advisory Board shall determine the form of the register, the information which it must contain and the manner in which it shall be kept at the disposal of control officials.

(3) The said order shall also prescribe the conditions under which certain enterprises or categories of enterprises may be exempted from keeping an employers' register.

## **PART VIII - PROFESSIONAL INSTITUTIONS**

### **CHAPTER I - THE NATIONAL LABOUR ADVISORY BOARD**

**Section 117 :** (1) A National Labour Advisory Board, hereinafter referred to as the "Board", shall be established under the ministry in charge of labour.

(2) Its functions shall be :

- (a) to examine matters relating to working conditions, employment, vocational guidance and training, placement, manpower movements, migration, improvement of the

material conditions of workers, social insurance, trade unions and employers' associations ;

- (b) to make the recommendations and proposals relating to laws and regulations to be made in the above areas, where such recommendations are provided for by this law.

**Section 118 :** (1) There shall be established within the National Labour Advisory Board and Standing Committee to which the Board may delegate powers to make any recommendations and proposals and examine and study all matters falling within its province.

(2) Ad-hoc committees may, as and when necessary, be formed within the board.

**Section 119 :** (1) The National Labour Advisory Board shall be presided over by the minister in charge of labour or his representative. It shall comprise :

- (a) one substantive member and one alternate member representing the National Assembly;
- (b) one substantive member and one alternate member representing the Economic and Social Council;
- (c) one substantive member and one alternate member representing the Supreme Court ;
- (d) an equal number of substantive and alternate representative of workers and employers appointed by an order of the minister in charge of labour on the proposal of the most representative workers' and employers' organizations ;
- (e) Where appropriate, experts and technicians sitting in an advisory capacity and appointed by an order of the minister in charge of labour in the light of the agenda of each session.

(2) The organization and functioning of the National Labour Advisory Board as well as of its Standing and Ad-hoc Committees shall be determined by regulations.

## **CHAPTER II - THE NATIONAL COMMISSION ON INDUSTRIAL HEALTH AND SAFETY**



**Section 120 :** (1) A National Commission on Industrial Health and Safety shall be set up under the ministry in charge of labour.

(2) It shall be charged with the study of problems related to industrial medicine and the hygiene and safety of workers. In this capacity, it shall be responsible for;

- (a) making suggestions and recommendations concerning laws and regulations to be made in the above fields ;
- (b) making recommendations for the benefit of employers and workers, insurance bodies and various ministries concerning the protection of the health of workers;
- (c) making proposals concerning the approval of dangerous machinery and manufacturing processes likely to endanger the health of workers ;
- (d) carrying out or participating in any work of a scientific nature falling within its sphere of activity.

**Section 121 :** (1) The National Commission on Industrial Health and Safety shall be presided over by the minister in charge of labour or his representative. It shall comprise technicians or experts of unquestionable competence in the fields of industrial medicine and industrial hygiene and safety. Representatives of workers and employers shall be represented in equal number within the National Commission.

(2) The National Commission may seek the assistance of experts whenever it deems this necessary.

(3) The organization and functioning of the National Commission shall be determined by regulations.

### **CHAPTER III - STAFF REPRESENTATIVES**

**Section 122 :** (1) Staff representatives shall be elected in any establishment located within the national territory, employing, on a regular basis, at least twenty workers governed by this law, irrespective of the nature of the establishment or of the employer, be he public or private, lay or religious, civilian or military.

(2) Where the head of the establishment has the status of worker he shall be part of the labour force to be considered for election.

(3) Staff representatives shall be elected for a two-year term of office. They shall be eligible for re-election.

**Section 123 :** (1) With the exception of the head of the establishment, workers of either sex who are eighteen years old and have worked for not less than six months in the enterprise shall qualify as electors.

(2) Electors, who are aged twenty years, can express themselves in English and French and have worked continuously in the enterprise for not less than twelve months shall be eligible for election.

(3) The head of the establishment, his spouse, ascendants as well as his relatives of the same degree shall not be eligible for election.

**Section 124 :** (1) Save in exceptional circumstances or unless otherwise provided for by agreement, the head of an establishment shall be bound to allow staff representatives a period of time of not more than 15 (fifteen) hours per month to perform their duties.

Such time shall be considered and paid for as working time. It shall be used only for the performance of duties that pertain to the office of staff representative such as are defined by the laws and regulations in force.

Where the time is not used, it may neither be carried forward to the following month nor be paid for.

**Section 125 :** An order of the minister in charge of labour issued after consultation with the National Advisory Board shall determine :

- (a) the number of staff representatives to be elected and their division into electoral colleges ;
- (b) the procedure of election which shall be by secret ballot;

- (c) the form of the report on the election which the employer shall be bound to submit to the Labour Inspector of the area.
- (d) the conditions under which the staff representatives shall be received by their employer or his representative as well as the facilities to be made available to them;
- (e) the conditions whereby a staff representative may be removed by the electoral college that elected him.

**Section 126 :** (1) Objections regarding electors, eligibility of staff representatives or the regularity of elections shall be dealt with by the Court of First Instance of the area which shall give a ruling without delay.

(2) To be admissible, an objection must be lodged within 3 (three) days following publication of the electoral lists if it relates to electors or to eligibility, within the 15 (fifteen) days following the announcement of the results of the election if it relates to the regularity thereof.

**Section 127 :** Each staff representative shall have a substitute elected in like manner who shall replace him when he is absent for any valid reason, or in the event of his death, resignation, removal, change of occupational category resulting in a change of electoral college, termination of contract of employment or loss of the qualifications for eligibility.

**Section 128 :** The functions of the staff representatives shall be :

- (a) to refer to the employers any individual or collective demands in respect of conditions of employment, workers' protection, the application of collective agreements, classification of occupations and wage rates which have not been directly acceded to ;
- (b) to refer to the Labour Inspectorate any complaint or claim in respect of the application of the laws and regulations which the said inspectorate is responsible for enforcing;
- (c) to ensure that the rules relating to the hygiene and safety of workers and to social insurance are observed, and to recommend any necessary action in these matters ;

- (d) to submit to the employer any useful suggestions for improving the organization and output of the enterprise.

**Section 129** : Notwithstanding the above provisions, the workers shall be entitled to submit their grievances and suggestions personally to the employer.

**Section 130** : (1) An employer or his representative proposing to terminate the appointment of a staff representative, whether permanent or substitute, shall be bound to seek and obtain the prior authorization of the local Labour Inspector.

(2) The Labour Inspector shall, after hearing both parties, ensure that the proposed determination is not motivated by acts carried out by the staff representative while performing his duties.

(3) Any dismissal made in violation of the foregoing provisions shall be null and void.

(4) However, in cases of serious misconduct, the employer may temporarily suspend the staff representative, pending the decision of the Labour Inspector. If the authorization is not granted, the staff representative shall be reinstated with full pay for the period of the suspension.

(5) The Labour Inspector shall make his decision known within a time limit of 1 (one) month, after which the authorization shall be taken for granted unless the Labour Inspector has notified the employer that an additional month is necessary for him to complete his enquiry.

(6) The above provisions shall apply to :

- (a) staff representatives who have been proposed for transfer elsewhere, thus making it impossible for them to perform their duties in their original establishment, unless the persons concerned have given their consent before the local Labour Inspector ;
- (b) former staff representatives for a period of 6 (six) months following the expiry of their term of office ;
- (c) candidates for the office of Staff Representative for a period of 6 (six) months following the date of filing of nomination papers.

(7) Notwithstanding the authorization of the Labour Inspector to dismiss a Staff Representative, such Staff Representative reserves the right to bring the matter before the competent court in accordance with the procedure laid down in Section 139 of this law.

## **PART IX - LABOUR DISPUTES**

### **CHAPTER I - INDIVIDUAL DISPUTES**

**Section 131** : Any individual dispute arising from a contract of employment between workers and their employers or from a contract of apprenticeship shall fall within the jurisdiction of the court dealing with the labour disputes in accordance with the legislation on judicial organization.

**Section 132** : The competent court shall, in principle, be that of the place of employment ; provided that a worker who no longer resides at the place where he was performing a contract of employment or before that of this place of residence, on condition that both courts are situated in Cameroon.

#### **I - Court**

**Section 133** : (1) The court dealing with labour disputes shall be composed of:

- (a) a president who shall be a judicial officer ;
- (b) an employer assessor and a worker assessor chosen from the lists drawn up in accordance with Section 134 below;
- (c) a registrar.

(2) The president shall designate the assessors who are to sit for each case.

(3) Where one or both of assessors duly summoned to attend fail to do so, the president shall summon them again. In the event where one or both of the assessors still fail to attend, the president shall sit alone.

(4) In the case referred to in the foregoing subsection, the judgment shall make mention of the duly justified absence of one or both of the assessors.

(5) Except in a case of force majeure, any assessor who is absent three times during his term of office shall be relieved of his duties. Another assessor designated from the list drawn up for the sector of activity concerned shall replace him for the remaining period of his term office.

**Section 134 :** (1) The assessors shall be appointed by order of the Minister of Justice on the proposal of the minister in charge of labour. They shall be chosen from lists containing not less than three names for each post to be filled submitted by the most representative trade unions or employer's associations. If these fail to act or if there are not such organizations, the minister in charge of labour shall directly make his proposal.

(2) The assessors shall be appointed for a term of two judicial years and may be re-appointed, provided that the assessors in office shall continue to act until the new appointments have been made.

(3) If necessary, the list of assessors may be completed during the judicial year in the same manner as that prescribed in Subsection 1. The term of office of the assessors so designated shall expire at the same time as that of the assessors appointed on the basis of biennial lists.

**Section 135 :** (1) The conditions required for appointment as an assessor shall be those required of the leaders or management of a trade union or employers' association as set out in Section 10 of this law, including the following additional conditions :

- (a) an assessor must have performed professional duties for at least 3 (three) years excluding apprenticeship;
- (b) he must have performed such duties in an area of jurisdiction of the court for at least the last 3 (three) months; and
- (c) he must be able to read and write English or French.

(2) An assessor who is convicted of any of the offences defined in Section 10 of this law, or who is deprived of his civic rights, shall automatically forfeit his office as assessor.

**Section 136** : Assessors shall take the following oath before the court in which they are to serve.

"I swear to discharge my duties with zeal and integrity and to keep the secrecy of the proceedings".

**Section 137** : (1) The functions of assessor shall be a civic and social duty. They shall be performed free of charge.

(2) However, travel and subsistence costs incurred and the amount of wages and allowances lost as a result of their attendance at the courts shall be reimbursable to assessors.

(3) The amount of and conditions of granting such allowances shall be determined by a joint order of the Minister of Justice and the Minister in charge of Labour.

## **II - Procedure**

**Section 138** : (1) The proceedings for the settlement of individual disputes relating to employment, both in first instance and on appeal, shall be free of charge.

(2) Any decisions and documents produced shall be registered duty-free and all procedural costs shall be treated on the same footing as costs in criminal proceedings in respect of their payment, charging, settlement and collection.

**Section 139** : (1) Any worker or employer shall request the competent Labour Inspector to settle the dispute out of court.

(2) Rules relating to summons and appearance before the court shall be determined by order following the recommendation of the National Labour Advisory Board.

(3) In the case of an amicable settlement, the terms thereof shall be embodied in a statement of conciliation made out by the Labour Inspector and signed by him and by the parties. Such settlement of the dispute shall be applicable when the statement

of conciliation has been endorsed by the president of the competent court and marked for enforcement.

(4) In cases of partial conciliation, the statement of non conciliation shall mention the points on which agreement has been reached and those on which disagreement persists.

(5) If the attempt at conciliation fails, the inspector of labour and social insurance or his representative shall make out a statement of non-conciliation.

(6) In all cases referred to above, a copy of the statement signed by the Labour Inspector and by the parties shall be addressed to the president of the competent court, and handed to the parties.

**Section 140 :** (1) In cases of total or partial failure of the attempt at conciliation to which reference is made in the preceding section, the action shall be instituted by an oral or written declaration made to the registrar of the competent court by the most diligent party.

(2) In order to be receivable, the said declaration shall be accompanied by a copy of statement of non-conciliation or of partial conciliation.

(3) The said declaration shall be entered in a register kept specially for the purpose, and a certificate of the entry shall be delivered to the party instituting the action.

**Section 141:** (1) Within two days (not including Sundays and holidays) of receipt of the petition, the president shall summon the parties to appear within twelve days (to which travelling time shall be added in appropriate cases).

(2) The summons shall state the name and occupation of the plaintiff, the subject matter of petition, and the place, date and hour for appearance.

(3) The summons shall be served on the person or delivered at his home in accordance with the provisions of ordinary law. Service may be validly effected by registered letter with acknowledgement of receipt.



**Section 142 :** (1) The parties shall appear before the court at the appointed place, date and hour. They may be accompanied or represented as in the case of proceedings before an ordinary court of law either by a worker or an employer engaged in the same branch of activity or by a representative of the trade union or employers' association to which the party belongs.

More over, an employer may be represented by a manager or employee of the undertaking or establishment.

(2) Save in the case of counsel, any such authorized representative shall be appointed by written document.

**Section 143 :** (1) If the plaintiff fails to appear on the day fixed for the hearing and fails to show a cause of force majeure, the case shall be struck off the rolls. It may be resumed once only, with the same formalities as for the initial petition otherwise it shall be void. If, after an adjournment, he fails to appear, the same shall apply.

(2) If the defendant does not appear but or is not properly represented, the court shall, after examining the case, pronounce a default judgment.

(3) If the defendant does not appear but has presented his defence in a written memorandum, the case shall be decided by a judgment which shall be deemed to have been given after a hearing of both parties.

(4) Any defendant who has appeared in the proceedings shall not thereafter be found to be in default. Any judgment given against him shall be deemed to have been given after a hearing of both parties.

(5) Whatever the case, the judgment shall be notified in accordance with the rules prescribed in Section 151 hereunder so that the period allowed for lodging an appeal may begin to run.

**Section 144 :** (1) An objection may be made concerning an assessor of the court :

- (a) If he has a personal interest in the matter in dispute ;

- (b) If he is related by blood or marriage up to the sixth degree, to one of the parties ;
- (c) If there have been penal or civil proceedings between the assessor and one of the parties or the spouse or relative by marriage in the direct line of the parties ;
- (d) If the assessor has expressed an opinion in writing or orally on the matter in dispute ;
- (e) If the assessor is the employer or employee of one of the parties to the case.

(2) The objection shall be made before any oral proceedings commence. The president shall give a ruling immediately. If the objection is overruled, the oral proceedings shall begin ; if the objection is upheld, the case shall be adjourned to the next hearing.

**Section 145 :** (1) The court shall proceed immediately with the examination of the case. If the parties so agree or if the president so decides, the case may be adjourned for not more than fifteen days. The court may also order giving reasons, an inquiry, an inspection of premises or other procedure for procuring information.

(2) On the request of the resident and the registrar, the court may immediately deliberate in private. Unless there is a postponement for further deliberation, which shall be limited to a maximum of eight days, the judgment shall be handed down immediately and shall contain reasons.

(3) The record of judgment shall be signed by the president and the registrar.

**Section 146 :** The judgment may provisionally order immediate execution, notwithstanding any motion for a stay of execution of any appeal, with exemption from surety up to a sum to be fixed by a statutory instrument. In respect of amounts in excess, provisional execution may be ordered on condition that surety is furnished; but it may be ordered without such condition, and in any amount, notwithstanding a motion for stay or an appeal, in the case of wages and perquisites recognized as due and not in dispute.

**Section 147** : All orders and judgments and all official copies of contracts and any other documents in respect of which execution may be ordered shall be marked with the executory formula and sealed as follows :

"Republic Cameroon" "In the name of the people of Cameroon" and shall close with the following words :

"Therefore the president of the Republic of Cameroon commands and orders all bailiffs and process-servers by these presents to give effect order (or judgment, etc.) and all procureurs general, state counsels and all members of the judicial and Legal Service and civil servants charged with taking action on behalf ; of the Republic to lend their aid when so required by law".

"In faith whereof the present order (or judgment, etc.) has been signed by the president and the registrar".

**Section 148** : Orders and judgments shall be executed, if the parties so request, by bailiffs and process-servers.

**Section 149** : A worker shall be entitled as of right to the assistance of the court in the execution of judgment or order in his favour. The president shall designate a bailiff who shall assist the worker in this regard.

**Section 150** : A third party claiming to be owner of all or part of the property distrained may, before the sale, submit his claim to the president of the court either orally or in writing. Where the evidence produced and the arguments put forward so warrant, the president shall suspend the sale of the articles and effects claimed and shall then summon the parties within eight days. After hearing the parties, the president shall make an order for against the appropriation of the property distrained.

**Section 151** : (1) In the case of judgment by default, service on the defaulting party shall be by the registrar of the court without charge, in the manner prescribed in Section 141 above.

(2) If within ten days of service (plus time allowed for distance) the defaulting party has not moved for a stay of execution in the manner prescribed in Section 140 above the judgment shall become enforceable. On a motion for a stay of execution the

court shall summon the parties again in the manner prescribed in Section 141 ; the new judgment shall be enforceable notwithstanding default.

**Section 152** : Except with regard to the labour jurisdiction of the court, the judgments of courts in matters shall be final and without appeal if they relate to applications for delivery of certificates of employment or pay slips.

**Section 153** : The courts passing judgments on labour matters shall deal with all counter-claims or applications for set-off which by their nature fall within their jurisdiction.

**Section 154** : (1) Within 15 days of the handing down of the judgment in the case of a full hearing, or of its notification in the case of judgement by default or deemed to have had full hearing, an appeal may be lodged in the manner prescribed in Section 140 above.

(2) The appeal shall be transmitted, within eight days of the declaration of the intention to appeal, to the registrar of the competent court of appeal.

(3) The appeal shall be determined within two months of the said declaration of intention to appeal, on the basis of the documents produced, provided that the parties may be heard at their request, in which case they may be represented in accordance with the rules laid down in Section 142 above. The parties shall be informed by the registrar, at the address given by the parties, of the date of the hearing, the name of the respondent and the judgement being appeal.

(4) The court shall give a ruling on the character of the appeal. In the case of an improper or dilatory appeal, the appellant may be sentenced to a fine of less than 20,000 and not more than 100,000 francs (5) The court shall designate a bailiff at whose instance the execution shall be carried out.

**Section 155** : (1) A court may, in the interest of justice and at the request of one of the parties, extend the time-limit provided for in this section for reasons which shall be stipulated in the judgment.

(2) No extension pursuant to the provisions of the present section shall exceed thirty days.

**Section 156 :** (1) In all procedural matters not covered by this chapter, ordinary law provisions shall be applicable only on the absence of specific provisions laid down in this law.

(2) The conditions of implementation of this chapter, in particular, as concerns the form of the registers, shall be laid down by statutory instruments.

## **CHAPTER II - COLLECTIVE DISPUTES**

**Section 157 :** (1) Any dispute which is characterized by :

(a) The intervention of a group of wage-earning workers, whether or not the said workers are organized in trade unions, and

(b) The collective nature of the interests at stake shall be deemed to be a collective labour dispute and shall therefore lie outside the jurisdiction of the courts to which reference is made in Section 131 above.

(2) Settlement of any collective labour dispute shall be subject to conciliation and arbitration procedure as provided for in a Sections 158 and 164 hereunder.

(3) Shall be deemed legitimate any strike or lock-out started after these arbitration procedures have been exhausted and have failed.

(4) A strike shall be collective or concerted refusal by all or part of the workers of an establishment to comply with the normal labour rules, in order to bring the employer to meet their demands or claims.

(5) A lock-out shall be the locking of an establishment by the employer in order to bring pressure to bear on workers on strike or threatening to go in strike.

### **I - Conciliation**

**Section 158 :** (1) The competent Inspector of Labour and Social Insurance shall be immediately notified by the most diligent party of collective dispute.

(2) Where the collective agreement does not provide for a conciliation procedure or in case of failure of such procedure, the competent Inspector of Labour Insurance shall immediately convene the parties and attempt to bring about an amical settlement.

(3) Either of the parties may empower representative to take part in the conciliation proceedings on its behalf. If a party does not appear and has not duly appointed a representative, the Inspector of Labour and Social Insurance shall make a report to that effect, and the defaulting party may, on the basis of the said report, be sentenced to a fine of not less than 50,000 and not more than 500,000 francs.

(4) The Inspector of Labour and Social Insurance shall convene the parties to meet again not more than forty-eight hours thereafter.

**Section 159 :** (1) At the end of the attempt at conciliation the Inspector of Labour and Social Insurance shall make a report stating either the agreement or partial or the total disagreement of the parties. The latter shall sign the statement and shall each receive a copy thereof.

(2) Any agreement by conciliation shall be enforceable as laid down in Section 139.

**Section 160 :** If the attempt at conciliation fails, the Inspector of Labour and Social Insurance shall be bound to refer the dispute to the arbitration procedure defined herein-after, within eight (8) clear days.

## **II - Arbitration**

**Section 161 :** (1) The arbitration of any collective labour dispute which has not been settled by conciliation shall be undertaken by an arbitration board established in the area of each appeal court and composed as follows :

- (a) Chairman : A judicial officer of the competent court of appeal
- (b) Members :
  - (i) An employer assessor;
  - (ii) A worker assessor.

(2) The two assessors shall be designated by the chairman of the arbitration board from among assessors appointed to the high court of the area.

(3) A registrar of the court of appeal shall act as secretary.

**Section 162 :** (1) The arbitration board shall not make and award on any matter except those set down in the statement of non-conciliation and those which have arisen out of events subsequent to the making of the said statement and are a direct consequence of the dispute.

(2) The board shall give its award in law in disputes regarding the interpretation and application of laws, regulations, collective agreements and company agreements currently in force.

(3) It shall give its award in equity in other disputes, particularly those relating to wages or to conditions of employment if the latter are not determined by legislative provisions, regulations, collective agreements or company agreements currently in force, and in disputes relating to the negotiations or revision of clauses or collective agreements.

(4) The arbitration board shall have the wide powers to obtain information on the economic situation of the undertakings and on the situation of the workers concerned in the dispute.

(5) It may make any necessary investigations of undertakings and trade unions and employers' associations and it may require the parties to produce any document or to provide any information, whether economic, accounting, financial, statistical or administrative, which may be useful to it in the performance of its duties.

(6) It may have recourse to experts and, in general, to any person duly qualified and likely to be able to inform it.

**Section 163 :** (1) An arbitration award shall be notified to the parties without delay by the competent inspector of labour and social insurance.

(2) If, at the expiration of a period of eight clear days after notification, neither party has applied for a stay of execution, the award become effective in accordance with the provisions of Section 164 hereunder. The same shall apply if an application for stay, having been made, is withdrawn before the expiration of the said period.

(3) An application for stay of execution shall be valid only if it is made by registered letter, with acknowledgement of receipt, sent to the Inspector of Labour and Social Insurance of the area.

**Section 164 :** (1) The putting in to effect of a conciliation agreement or of an award in respect of which no stay of execution has been allowed shall be mandatory. If such agreement or award does not specify a date in this regard, it shall have effect as from the date of the attempt at conciliation.

(2) A trade union or employer's association duly established in conformity with this law may institute any proceeding arising out of a conciliation agreement or arbitration award in respect of which no application has been made for a stay of execution.

(3) Conciliation agreements and arbitration awards shall be immediately posted up in the offices of the inspectorate of labour and social insurance and published in the Official Gazette.

(4) The minutes of agreements and of awards shall be deposited at the registry of the high court of the place of the dispute.

(5) The conciliation and arbitration procedures shall be free of charge.

**Section 165 :** (1) A lock-out or strike undertaken in contravention of the above provisions may have the following consequences :

- (a) In case of a lock-out, the employer may :
  - (i) be required to pay workers' wages for the days so lost;



- (ii) Be declared, for a period of not less than two years, ineligible for membership of a chamber of commerce and prohibited from participating in any way whatsoever in any works enterprise or in any supplies contract involving the state or a local council. Such ineligibility shall be pronounced by an ordinary law court on the application of the minister in charge of labour and social insurance.
- (b) In case of a strike, the workers may :
  - (i) see their contracts terminated on grounds of serious misconduct;
  - (ii) be punished with fine of from 20,000 to 100,000 CFA francs.

## **PART X - PENALTIES**

**Section 166** : Any person responsible for the administration or management of a trade union, and any person committing and infringement of the provisions of Section 3, 6, 10, 16 and 19 shall be punished with fine of from 50,000 to 500,000 francs.

**Section 167** : (1) Any person committing an infringement of Sections 29, 30 (1), 40, 41, 44, 50 (1), 51, 62, 64, 86, 87 (2), 88, 89, 90, 92, 93, 97, 98 (1), 99, 100, 101, 112 (2) and (3), 114 (1), 115 and 116 ;

(2) Any person making false statements concerning the rules of a trade union or of an employers' association or the names and offices of the persons responsible for the administration or management of such trade union or association ;

(3) Any person falsely claiming to be responsible for the administration or management of a trade union ;

(4) Any person committing an infringement of the of the decree provided for in Section 62 (1); and

(5) Any person committing an infringement of the provisions of collective agreements which have been the subject of a decree of extension, in matters of wages, bonuses, allowances or any other benefits in cash,

shall be punished with fine of from 100,000 to 1,000,000 francs.

**Section 168 :** (1) Any person committing an infringement of Sections 26, 27 (2), 67, 68, 75 (1), 82 and 84 (1), (2), (5), and (4);

(2) Any person who commits, against a worker belonging to a trade union, an act of discrimination tending to affect freedom of association as regards employment ;

(3) Any person who engages in any of the practices referred to in Section 4 (2);

(4) Any person interfering with the proper performance of the duties of staff representatives ;

(5) Any person who forces a worker to take up employment against his will or who prevents a worker from taking up employment, going to work or discharging, in a general manner, any obligations imposed by his contract;

(6) Any person who, by using a fictitious contract or one which contains untrue statements, obtains employment or intentionally takes the place of another worker, and,

(7) Any employer, employer's agent or official in charge who knowingly enters in the employer's register or other document false statements concerning the duration of a worker's employment or he character of his work, and any worker who knowingly makes use of such false statement; and

(8) Any person who demands or accepts from a worker any remuneration whatsoever for acting as an intermediary in the settlement or payment of wages ; allowances or costs of any kind, or for obtaining an employment or for settling an individual dispute respecting employment whatever the matter at issue,

shall be punished with fine of from 200,000 to 1,500,000 francs.

**Section 169 :** (1) Any person who obstructs the performance of the duties or the exercise of the powers of the Inspectors of Labour and Social Insurance on the medical inspectors labour and social insurance shall be punished with a fine of from 1,000,000 francs to 2,000,000 francs.

**Section 170 :** (1) In case of a repetition of infringement of the provisions of Sections 26, 27 (2), 30 (1), 67, 68, 75 (1), 82, 84 (2), (3) and (4), 86, 88, 89, 90, 92, 93, 98 (1) as well as of the provisions of Sections 167 (3), 168 (2), (3), (4), (5), (6), (7), (8), and 169, a penalty of imprisonment of from 6 days to 6 months may also be required.

(2) Where the person concerned is a second offender or whenever the person committing the infringements referred to in Section 168 (8) is one of the persons responsible for the administration and a management of trade union or belongs to the Ministry of Labour and Social Insurance, the penalty of imprisonment shall be mandatory.

**Section 171 :** The provisions of the Penal Code shall apply to :

(1) persons guilty of acts of resistance, abuse and force against inspectors of labour and social insurance and medical inspectors of labour and social insurance ;

(2) persons committing infringements of the provisions of Section 2 (3); and

(3) persons impersonating inspectors of labour and social insurance and medical inspectors of labour and social insurance.

**Section 172 :** The fines provided for in Sections 167, 168, 169 and 170 in respect of infringements of the provisions of Sections 29, 40, 62, 67, 68, 82, 86, 87, 88, 97 and 100 above shall be multiplied by the number of workers affected by the punishable offence.

**Section 173 :** The head of an enterprise shall bear civil liability for the conviction of his agent or official in charge.

## **PART XI - SPECIAL TRANSITIONAL AND FINAL PROVISIONS**

**Section 174 :** In matters where no special provisions have been stipulated, enterprises benefiting from the Industrial Free Zone regime shall be bound to apply the provisions of this law and its implementation instruments

**Section 175** : Vocational training, vocational rehabilitation and employment of handicapped persons shall be governed by laws.

**Section 176** : (1) All previous provisions repugnant to this law are repealed, in particular law N 74/14 of 27 November 1974 to institute the Cameroon Labour Code and Law N 68/LF/20 of 18 November 1968 prescribing the form in which trade unions and employer's associations must be set up in order to qualify for registration.

(2) Regulations drawn up pursuant to afore-mentioned law N° 74/14 of 27th November, 1974, or those applicable to the said law but not repugnant to this law shall remain in force until repealed or replaced.

**Section 177** : This law shall be registered, published according to the procedure of urgency and inserted in the Official Gazette in English and French.

Yaounde,

14 AUGUST 1992