

THE EMPLOYMENT RIGHTS BILL 2007

(No. of 2007)

Explanatory Memorandum

The object of this Bill is to revise and consolidate the law relating to employment, contracts of employment or service, minimum age for employment, hours of work, payment of remuneration and other basic terms and conditions of employment with a view to ensuring appropriate protection of workers.

V. K. BUNWAREE

Minister of Labour, Industrial Relations &
Employment

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A BILL

To revise and consolidate the law relating to employment and contracts of employment or service.

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Employment Rights Act 2007.

2. Interpretation

In this Act -

“agreement” means a contract of employment or service between an employer and a worker, whether oral or written, implied or express;

“bullying” means any form of physical or psychological harassment;

“child” means a person under the age of 16;

“collective agreement” has the same meaning as in the Employment Relations Act;

“comparable full-time worker” means a full-time worker who –

- (a) has the same type of employment relationship;
- (b) is engaged in the same or a similar type of work or occupation; and
- (c) is employed in the same establishment, enterprise or branch of activity, as the part-time worker concerned;

“continuous employment” has the meaning given to it by section 9;

“Council” means the Labour Advisory Council established under section 63;

“Court” means the Industrial Court established under the Industrial Court Act;

“day” means any period of 24 consecutive hours;

“employer” subject to section 33 –

- (a) means –
 - (i) a person, enterprise or body of persons, who or which employs a worker;
 - (ii) a person responsible for the payment of remuneration to a worker;
- (b) includes –
 - (i) a job contractor;
 - (ii) a person, other than another shareworker, who shares the profit or gross earnings of a shareworker;

“enterprise” includes a trade or business;

“factory” -

- (a) means any premises with machinery on which, or within the precincts of which, persons are employed in the making, altering, repairing, cleaning, breaking up or adapting for sale of any article for the purpose of gain and over which the employer has the right of access or control;
- (b) includes any premises on which -
 - (i) ships or vessels are constructed, repaired or broken up;
 - (ii) the business of sorting any article is carried on as a preliminary to the work carried on in a factory or as an incidental to the purposes of a factory;
 - (iii) the business of washing or filling bottles or containers or packing articles is carried on as an incidental to the purposes of a factory;

- (iv) the business of hooking, plaiting, lapping, making up or packing of yarn or cloth is carried on;
- (v) the business of a laundry is carried on as an ancillary to another business or as an incidental to the purposes of a public institution;
- (vi) the construction, reconstruction or repair of vehicles or other plant for the use for transport purposes is carried on as an ancillary to a transport undertaking or other industrial or commercial undertaking not being premises used for the purpose of housing vehicles where only cleaning, washing, running repairs or minor adjustments are carried on;
- (vii) printing by letter-press, lithography, photogravure, or other similar process, or book-bindings is carried on by way of trade or for purposes of gain or as an incidental to another business so carried on;
- (viii) mechanical power is used in connection with the making or repair of articles of metal or wood as an incidental to any business carried on by way of trade or for the purposes of gain;
- (ix) articles are made or prepared as an incidental to the carrying on of building operation or works of engineering construction, not being premises in which such operations or works are being carried on;
- (x) bread, biscuits or confectionery are baked by way of trade for purposes of gain;
- (xi) tobacco leaf is cured or otherwise made ready for manufacture or is manufactured into tobacco in any form;

“fortnight” means any period of 14 consecutive days;

“good and sufficient cause” includes–

- (a) illness or injury certified by a medical practitioner;
- (b) absence sanctioned by the employer;

“goods vehicle” has the same meaning as in the Road Traffic Act;

“harassment” means any unwanted conduct, verbal, non-verbal, visual, psychological or physical, based on age, disability, HIV status, domestic circumstances, sex, sexual orientation, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, birth or other status, that a reasonable person would have foreseen that a worker would be affected negatively in his dignity and includes sexual harassment;

“industrial undertaking” includes –

- (a) mining and quarrying operations or other activities connected with mineral prospecting;

- (b) the manufacture, production, assembly, installation, repair, maintenance, modification or destruction of materials or properties;
- (c) ship building operations;
- (d) the generation, transformation, and supply of electric power or other type of energy;
- (e) the construction, extension, installation, repair, maintenance, alteration or demolition of buildings, airfields, tramway lines, harbours, dockyards, piers inland water ways, roads, tunnels, bridges, drainage, water pipes, telegraphic and telephonic installations, electric gas or water works or other construction work including the preparation for or laying the foundation of any such work or structure; and
- (f) such other undertaking as the Minister may by regulations determine;

“job contractor” means a person who –

- (a) employs a worker to perform any work or service that the person has contracted to do, or provide, for another person; and
- (b) recruits a worker on behalf of another person in the course of that other person’s trade or business;

“local authority” has the same meaning as in the Local Government Act 2003;

“machinery” includes -

- (a) boilers;
- (b) prime movers and transmission gears;
- (c) furnaces and storage tanks;
- (d) vats, tanks and cooling or drying devices used in connection with the produce of any mechanical process;

“Minister” means the Minister to whom responsibility for the subject of labour and industrial relations has been assigned;

“officer” means an officer designated by the Permanent Secretary;

“partnership” includes any association or body of persons whether corporate or unincorporate;

“part-time worker” means a worker whose normal hours of work do not exceed 5 hours in any day or 60 hours in any fortnight;

“pay period” means the period for which remuneration is paid under section 5;

“Permanent Secretary” means the Permanent Secretary of the Ministry to whom responsibility for the subject of labour and industrial relations has been assigned;

“place of work” means a place where work is performed under an agreement;

“public holiday” has the same meaning as in the Public Holidays Act;

“public officer” has the same meaning as in the Constitution;

“remuneration” -

- (a) means all emoluments earned by a worker under an agreement;
- (b) includes -
 - (i) any sum paid by an employer to a worker to cover expenses incurred in relation to the special nature of his work; and
 - (ii) any money to be paid to a job contractor, for work by the person employing the job contractor;
- (c) does not include money due as a share of profits;

“severance allowance” means an amount calculated in accordance with section 46;

“share worker” means a person who -

- (a) is remunerated wholly or partly by a share in the profits or gross earnings of the work done by him; and
- (b) is not an owner of the main equipment used in the work he does.

“shift work” means work on which 2 or more persons are alternately employed at different times;

“shop” means a place where any wholesale or retail trade or business is carried on;

“stipulated hours” means the hours of work specified in section 14 or such lesser number of hours of work as may be specified in an agreement;

“threatening behaviour” means any behaviour or declaration of intention to use force on, or to intimidate, a worker;

“trade or business” means any occupation, calling, trade, business, profession, industry, service or other commercial activity;

“trade union” has the same meaning as in the Employment Relations Act;

“transmission gear” means a device by which the motion of a primemover is transmitted to or received by a machine or other appliance;

“week” means any period of 7 consecutive days;

“week day” means any day other than a public holiday;

“worker”, subject to section 33 –

- (a) means a person who has entered into, or works under an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Industrial and Vocational Training Act whether by way of casual work, manual labour, clerical work or otherwise and however remunerated;
- (b) includes –
 - (i) a part-time worker;
 - (ii) a former worker where appropriate;
 - (iii) a shareworker;
- (c) does not include –
 - (i) a job contractor;
 - (ii) except in relation to Parts VIII and IX, a person whose basic wage or salary is at a rate in excess of 240,000 rupees per annum;

“young person” means a person, other than a child, who is under the age of 18.

3. Application

- (1) Subject to subsections (2), (3) and (4) and to any provision to the contrary in any other enactment, this Act shall apply to every agreement.
- (2) Part XI of this Act and sections 60, 61 and 62 shall apply to a public officer.
- (3) Subject to Part XI and sections 51, 60, 61 and 62, this Act shall not apply to a worker of a local authority.
- (4) Subject to Parts VIII and XI and sections 46(5), 48, 60, 61 and 62, this Act shall not apply to a worker of a parastatal body.

PART II – AGREEMENTS

4. Discrimination in employment and occupation

- (1) No worker shall be treated in a discriminatory manner by his employer in respect of his employment and occupation.

- (2) Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
- (3) For the purpose of this section –
 - (a) “discriminatory” includes affording different treatment to different workers attributable wholly or mainly to their respective description by race, colour, sex, sexual orientation, HIV status, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
 - (b) “employment” and “occupation” include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

5. Agreements

- (1) Subject to subsection (3), no person shall enter into an agreement under which remuneration is to be paid at intervals of more than one month.
- (2) An agreement which contains a provision inconsistent with subsection (1) shall, to the extent of the inconsistency, be void.
- (3) An agreement may be entered into for a specified piece of work or for a specified period of time.
- (4) Where a worker –
 - (a) is summoned or required to report at a given place or conveyed there by the employer or his agent; and
 - (b) is found fit and willing to perform the work for which he was summoned, required to report or conveyed,the worker and the employer shall be deemed to have entered into an agreement.
- (5) Where the worker is required to perform task work, his employer or his agent shall, before the work is commenced, inform the worker of the nature of the task he is required to do and the rate at which he will be remunerated for that work.

6. Capacity of workers

Notwithstanding any other enactment, a person who is of the age of 16 or more shall be competent to enter into an agreement and shall, in relation to the agreement and to its enforcement, be deemed to be of full age and capacity.

7. Liability for act or omission of another person

Notwithstanding any other enactment, no worker shall be bound by virtue of an agreement to answer for the act or omission of any other person.

8. Written particulars of agreements

Every employer shall provide to every worker a written statement of particulars of employment in the form specified in the First Schedule within one month of entering into an agreement.

9. Continuity of employment

The continuity of a worker's employment shall not be deemed to have been interrupted –

- (a) by the worker's absence from work –
 - (i) on any leave taken in accordance with this Act or any other enactment, an agreement, a collective agreement or an award;
 - (ii) due to suspension from employment;
 - (iii) by reason of participation in a strike which is not unlawful under the Employment Relations Act;
 - (iv) with the consent of the employer;
- (b) where the interval between one agreement and another with the same employer does not exceed 28 days;
- (c) on account of the limited number of days worked as specified in the agreement of a part-time worker.

10. Consideration for full-time employment

- (1) Where a vacancy occurs in the full-time workforce of an employer, priority of consideration for full-time employment shall be given, as far as practicable, to a part-time worker in the same category and grade.
- (2) Where there are 2 or more workers eligible under subsection (1), the employer shall have regard to qualification, merit, experience, performance and seniority.

11. Transfer to part-time work

A worker may enter into an agreement with an employer to perform part-time work subject to –

- (a) the agreement being in writing;
- (b) the agreement being for a specified period of time;
- (c) the agreement providing for the option to the worker to revert to full time work at the expiry of the specified period of part-time work.

PART III – MINIMUM AGE FOR EMPLOYMENT

12. Employment of children and young persons

- (1) No person shall enter into an agreement with a child.
- (2) No person shall employ or continue to employ a young person –
 - (a) on work which by its nature, or circumstances in which it is carried out, is likely to jeopardise the health, safety, physical, mental, moral or social development of the young person; or
 - (b) after being notified in writing by the Permanent Secretary that the kind of work upon which the young person is employed is unsuitable for the young person or will interfere with the young person's education.

13. Record of young persons

Every employer shall keep a record of every young person employed by him showing his date of birth.

PART IV – HOURS OF WORK

14. Normal working hours

- (1) The normal hours of work of every worker, other than a part-time worker or a watchman, -
 - (a) shall consist of 90 hours in a fortnight, excluding time allowed for meal and tea breaks;
 - (b) may begin on any day of the week, whether or not the day is a public holiday.
- (2) No worker, other than a watchman, shall, except with his consent, be required to work continuously for a period exceeding 12 hours a day.
- (3) The normal hours of work of a watchman, other than a part-time watchman, -
 - (a) shall consist of 144 hours in a fortnight;
 - (b) may begin on any day of the week, whether or not the day is a public holiday.
- (4) No watchman shall, except with his consent, be required to work continuously for a period exceeding 16 hours.
- (5) Every worker shall be entitled to a rest day in every period of 7 consecutive days and the rest day shall at least twice a month be a

Sunday or any other day as may be agreed between the worker and the employer.

- (6) No person shall employ a young person in an industrial undertaking—
 - (a) for more than 10 consecutive hours in a day; and
 - (b) between 10.00 pm and 5.00 am.
- (7) A worker shall not be required to resume work before a lapse of 11 hours after he has ceased work.

15. Notional calculation of basic hourly rate

For the purpose of determining remuneration due for extra work or for any other reasons –

- (a) for a monthly paid worker, a month shall be deemed to consist of –
 - (i) 312 hours in the case of a watchman; and
 - (ii) 195 hours in every other case;
- (b) for a fortnightly paid worker, a fortnight shall be deemed to consist of –
 - (i) 144 hours in the case of a watchman; and
 - (ii) 90 hours in every other case;
- (c) for a weekly paid worker, a week shall be deemed to consist of –
 - (i) 72 hours in the case of a watchman; and
 - (ii) 45 hours in every other case; and
- (d) for a daily paid worker, a day shall be deemed to consist of –
 - (i) 12 hours in the case of a watchman; and
 - (ii) 8 hours in every other case.

16. Overtime

- (1) Subject to subsection (2)–
 - (a) a worker may be required to perform extra hours of work for up to 20 hours per fortnight;
 - (b) no worker shall, except with his consent, be required to perform extra hours of work in excess of 20 hours per fortnight;
 - (c) no employer shall require a worker to perform extra hours of work unless he has given notice to the worker of the extra work to be performed and its duration at least 24 hours in advance.
- (2) Subject to subsection (3), -

- (a) where a worker works on a public holiday, he shall be remunerated at twice the basic hourly rate for every hour of work performed;
 - (b) where a worker, other than a watchman, performs more than the stipulated hours in any fortnight, not being the hours of work referred to in paragraph (a), he shall be remunerated at one and a half times the basic hourly rate for every hour of work performed;
 - (c) where a watchman performs more than 144 hours' work in any fortnight, not being the hours of work referred to in paragraph (a), he shall be remunerated at one and a half times the basic hourly rate for every hour of work performed.
- (3) An agreement may provide that the remuneration provided for in it includes payment for work on public holidays and overtime where–
- (a) the maximum number of public holidays; and
 - (b) the maximum number of hours of overtime on week days,
- covered by the remuneration are expressly provided for in the agreement.

17. Public Holiday

- (1) A daily paid worker who has remained in continuous employment with the same employer for 12 consecutive months shall be entitled, thereafter to a normal day's pay in respect of every public holiday, other than a Sunday, that occurs while he is in the service of the employer and on which he is not required to work.
- (2) Where a daily paid worker, specified in subsection (1), is called upon to work on a public holiday, other than a Sunday, he shall be paid, in addition to the normal day's pay provided for under subsection (1), any remuneration due under section 16.
- (3) Where a worker, other than a daily paid worker, is called upon to work on a public holiday, other than a Sunday, he shall be paid, in addition to his normal wage, any remuneration due under section 16.

18. Meal and tea breaks

Every employer shall, unless the employer and worker agree otherwise, grant to the worker on each working day –

- (a) a meal break of one hour not later than 4 consecutive hours of work ;
and
- (b) one tea break of at least 20 minutes or two tea breaks of at least 10 minutes each.

19. Meal Allowance

- (1) Where a worker is required to perform extra work –
 - (i) for less than two hours but at least up to 7.00p.m.; or
 - (ii) for a period covering at least two hours and extending to at least 6.00 p.m.,after having completed a normal day's work, he shall, in addition to any remuneration due under section 16, be provided with an adequate free meal or a meal allowance of 25 rupees per day.
- (2) The meal allowance specified in subsection (1) shall be paid not later than the day on which the next wages are due to be paid.

PART V - REMUNERATION

20. Equal remuneration for work of equal value

- (1) Every employer shall ensure that remuneration and other conditions of employment of any employee in his enterprise shall not be less favourable than those of another employee performing work of equal value.
- (2) Where an employer has recourse to the services of a job contractor, the job contractor shall ensure that the remuneration and other conditions of employment of any workers shall not be less favourable than those of a worker of the employer performing work of equal value.

21. Payment of remuneration

- (1) Every employer shall pay a worker at monthly intervals, unless the parties agree to payment at shorter intervals.
- (2) Every employer shall pay remuneration directly to every worker –
 - (a) in legal tender only, unless the worker agrees to, or a collective agreement applicable to the worker provides for, payment by cheque or into the worker's bank account;
 - (b) during working hours at the place of work, when paid in legal tender or by cheque;
 - (c) in the case of a monthly paid worker, not later than two working days after the end of the pay period;
 - (d) in the case of a worker paid otherwise than monthly, not later than the last working day of the pay period.
- (3) Every employer shall –

- (a) issue to every worker, at the time of paying remuneration, with a payslip in a form substantially set out in the Second Schedule;
 - (b) cause each worker, to whom remuneration is paid in legal tender or by cheque, to sign or affix his thumbprint to a remuneration book giving particulars of the remuneration paid.
- (4) No employer shall, in respect of the payment of remuneration –
- (a) restrict, by agreement or otherwise, the freedom of a worker to determine where and how his remuneration is to be spent; and
 - (b) pay, require or permit remuneration to be paid in a shop or in any place where alcoholic liquor or noxious drugs are sold, or cause or allow the owner of the shop or his representative or any person employed by him, to pay remuneration due to the worker, unless the worker is employed therein.

22. Deduction

- (1) Without prejudice to Sub-Part A of Part VIII and 137 of the Income Tax Act, no employer shall deduct any amount from a worker's remuneration, other than an amount which –
- (a) is authorised by the worker in writing and which –
 - (i) is due to the employer in recovery of an advance made on remuneration, provided the deduction does not exceed one fifth of the remuneration due for a pay period and does not include any amount by way of discount, interest or similar charge on account of the advance on remuneration;
 - (ii) the worker wishes to be paid to any body or fund specified in the Third Schedule ;
 - (b) is deducted in accordance with a court order.
- (2) No employer shall deduct any amount from a worker's remuneration, which in the aggregate, exceeds one half of the worker's remuneration for any pay period.
- (3) No employer shall, in respect of the payment of remuneration, deduct any amount –
- (a) by way of fine or compensation for poor or negligent work or for damage to the property of the employer; and
 - (b) as a direct or indirect payment for the purpose of obtaining or retaining employment.

23. Payment of remuneration to a part-time worker

- (1) Every employer shall pay to a part-time worker not less than the basic remuneration prescribed in any enactment or specified in a collective

agreement except where the enactment overrides the agreement, for his category or grade whichever is the higher, calculated proportionately on an hourly basis and increased by not less than 5 per cent.

- (2) Where no basic remuneration is prescribed in an enactment or specified in a collective agreement, every employer shall pay to a part-time worker not less than the basic wage of a comparable full-time worker calculated proportionately on an hourly basis and increased by not less than 5 per cent.
- (3) Any award made by the Permanent Arbitration Tribunal on the basic remuneration of a part-time worker shall supercede any enactment or collective agreement providing for such basic remuneration.

24. Payment of remuneration in special circumstances

- (1) An employer shall pay to a worker –
 - (a) a full day's remuneration where –
 - (i) the employer is unable to provide work; or
 - (ii) owing to climatic conditions, power failure, or breakdown in machinery or appliances, work has been stopped after the worker has worked for more than 2 hours;
 - (b) half a day's remuneration where owing to climatic conditions, power failure or breakdown in machinery or appliances –
 - (i) the employer is of opinion that no work can be performed; or
 - (ii) work has been stopped before the worker has completed 2 hours work.
- (2) Subject to section 36(1), an employer may require a worker to work temporarily for a time shorter than that specified in his agreement at a reduced remuneration, subject to the approval of the Permanent Secretary.
- (3) A worker who accepts the reduction in working time and remuneration shall be entitled to accept work for another employer during the time no work is provided to him.
- (4) Where a cyclone warning class III or IV has been issued, a worker may absent himself from work and the employer shall pay remuneration to the worker at the normal rate in respect of the period of absence.
- (5) Subsection (4) shall apply until –
 - (a) the cyclone warning class III or IV has been removed and the employer provides a means of transport to the worker's place of work; or

- (b) public transport is available.
- (6) Where a worker works on a day on which a cyclone warning class III or IV is in force, the worker shall, in addition to any remuneration due to him, be entitled to–
 - (a) an allowance equal to 3 times the basic hourly rate in respect of every hour; and
 - (b) adequate free meals.
- (7) No remuneration shall be payable to or recoverable by a worker for or on account of any period–
 - (a) during which the worker was in lawful custody;
 - (b) spent by the worker in going to or returning to a reform institution;
 - (c) spent by the worker in going to, attending or returning from any court in relation to proceedings in which he is involved.

25. Payment of remuneration due on termination of agreement

- (1) Subject to subsection (2) every employer shall pay any remuneration due to a worker forthwith on the termination of the worker's agreement.
- (2) Where the parties to an agreement are deemed to have entered into a fresh agreement under section 36(2), the employer shall, not later than two week days after the expiry of the previous agreement, pay to the worker the remuneration due under the previous agreement.
- (3) Where notice of termination of an agreement has been given under section 37, the employer shall, on or before the date of expiry of the notice, pay to the worker any remuneration due.
- (4) Where an agreement is terminated otherwise than by notice under section 37, or by expiry of the period for which the agreement was agreed to last, the employer shall, not later than 2 week days after the termination of the agreement, pay to the worker any remuneration due.
- (5) Where an agreement is terminated by an employer otherwise than on grounds of misconduct and at the time of termination the worker has not taken any of the leave to which he is entitled under section 27, the employer shall in lieu of leave, pay to the worker the remuneration to which he would have been entitled if he had worked.

PART VI – OTHER CONDITIONS OF EMPLOYMENT

26. Transport of workers

- (1) Where a worker resides at a place more than 3 kms from the place where he reports for work, his employer shall –

- (a) provide transport free of charge to the worker; or
 - (b) pay the worker not less than the amount of the return bus fare.
- (2) Where a worker is required by his employer to commence or cease work at a time when no public bus service is available, the employer shall, within a reasonable time, provide the worker with an appropriate means of transport, free of charge.
- (3) No person shall, except with the Permanent Secretary's written consent, transport a worker or cause a worker to be transported in –
- (a) a goods vehicle;
 - (b) any other vehicle,
- where the vehicle is not provided with an easy means of entering and alighting which does not involve climbing.
- (4) Where a worker has to be transported to and from his place of work in a vehicle other than a bus or a motor-car, the transport shall be provided in a vehicle duly licensed for that purpose by the National Transport Authority.
- (5) The Minister may, by regulations, prescribe the categories of workers to whom transport facilities shall be provided and the conditions under which such workers shall be transported.

27. Annual leave

- (1) Every worker, other than a part-time worker, who has been in continuous employment with the same employer for 12 consecutive months shall be entitled, in respect of every successive period of 12 months during which he remains in the continuous employment of the employer, to 160 normal working hours or 20 working days of 8 hours each leave on full pay.
- (2) Notwithstanding section 3 or any other enactment, every worker shall be entitled to 2 days' leave in every year in addition to the annual leave, by whatever name called, to which he is entitled under –
- (a) subsection (1);
 - (b) any other enactment;
 - (c) the provisions of any agreement; or
 - (d) the provisions of any collective agreement or any award.
- (3) Where a part-time worker has been in continuous employment with the same employer for 12 consecutive months, he shall be entitled, in respect of every successive period of 12 months during which he remains in the continuous employment of the employer, to the number of hours of annual leave on full pay computed in accordance with the following formula –

$N/W \times 160$ normal working hours, where “N” means the number of hours of work he is required to perform in a fortnight and “W” the number of working hours in a fortnight of a comparable full-time worker.

- (4) Where the employer and the worker are unable to agree as to when the leave under this section is to be taken, half of the leave period shall be fixed by the employer and the other half by the worker.
- (5) Where a worker has not taken or been granted all the leave to which he is entitled under this section, he shall be paid a normal hour’s basic wage in respect of each hour’s leave still due at the end of the period of 12 consecutive months.
- (6) Any agreement by a worker to forgo his annual leave entitlement under this section shall be null and void.

28. Sick leave

- (1)
 - (a) Subject to subsections (3) and (4), every worker, other than a part-time worker, who has been in continuous employment with the same employer for 12 consecutive months shall be entitled, in respect of every successive period of 12 months during which he remains in the continuous employment of the employer, to 120 normal working hours’ or 15 working days’ of 8 hours each sick leave on full pay on ground of illness.
 - (b) Where, at the end of the period of 12 consecutive months, a worker has not taken the sick leave to which he is entitled under paragraph (a), any outstanding sick leave shall be accumulated in a bank of sick leave up to a maximum of 720 normal working hours or 90 working days’ of 8 hours each.
- (2)
 - (a) Where a part-time worker has been in continuous employment with the same employer for 12 consecutive months, he shall be entitled, in respect of every successive period of 12 months during which he remains in the continuous employment of the employer to the number of hours of sick leave on full pay computed in accordance with the following formula –
 $N/W \times 120$ normal working hours, where “N” means the number of hours of work he is required to perform in a fortnight and “W” the number of working hours in a fortnight of a comparable full-time worker.
 - (b) Where, at the end of the period of 12 consecutive months, a worker has not taken the sick leave to which he is entitled under paragraph (a), any outstanding sick leave shall be accumulated up to a maximum number of hours according to the following formula –
 $N/W \times 720$ normal working hours, where “N” means the number of hours of work he is required to perform in a fortnight and “W”

the number of working hours in a fortnight of a comparable full-time worker.

- (3) A worker shall be entitled to take the sick leave accumulated in the bank after having taken all the leave specified in subsection 1(a) or 2(a), as the case may be, in respect of any time which is—
 - (a) wholly spent in a clinic or hospital; or
 - (b) certified by a medical practitioner of a clinic or hospital as being necessary for the convalescence of the worker after having been discharged from the clinic or hospital.
- (4)
 - (a) Where a worker absents himself on ground of illness, he shall, except where the employer is aware of the nature of the illness, notify his employer of his illness as soon as possible.
 - (b) Where a worker, referred to in paragraph (a), remains ill for more than 3 consecutive working days, he shall forward to his employer a medical certificate —
 - (i) on the fourth day of absence; or
 - (ii) where the worker is admitted to a hospital or similar institution, within 3 days following his discharge.
- (5) A medical certificate issued for the purpose of showing good and sufficient cause for absence from work shall not be valid in respect of any period in excess of 4 days before the day on which the person to whom the certificate relates had been examined by the medical practitioner issuing the certificate.
- (6) The employer may, at his own expense, cause a worker who is absent on ground of illness to be examined by a medical practitioner.

29. Medical facilities

- (1) Every person who employs 10 or more workers shall make appropriate arrangements for the medical and health requirements of his workers at work.
- (2) Where a worker has suffered injury or illness at work necessitating his removal to his home or to a hospital or other similar institution, the employer shall promptly and at his own expense provide an appropriate means of conveyance for the worker.

30. Maternity benefits

- (1)
 - (a) A female worker shall, on production of a medical certificate, be entitled to 12 weeks maternity leave.
 - (b) Leaves deductible from the 12 weeks entitlement may be taken within a period of 6 weeks before confinement, provided that the

worker notifies her employer as soon as possible of the intention to go on such leave and if the leave taken exceeds three days consecutively, the worker shall produce a medical certificate to that effect on the fourth day of absence.

- (c) Entitlement to leave under paragraph (b) shall not prejudice the right of a worker to go on sick leave within the period of 6 weeks before confinement.
- (2) Any period of absence under subsection (1) shall –
- (a) be deemed to be absence from work with the consent of the employer; and
 - (b) subject to the subsection (5), where the female worker has been in continuous employment with the same employer for more than 12 months, be on full pay.
- (3) Where a female worker, other than a part-time worker, has remained in continuous employment with the same employer for 12 months immediately preceding her confinement, she shall, on production of a medical certificate, be entitled to an allowance of 2,000 rupees payable within 7 days of her confinement.
- (4) Where a part-time female worker has remained in continuous employment with the same employer for 12 months immediately preceding her confinement, she shall, on production of a medical certificate, be entitled to an allowance computed in accordance with the following formula –
- $$N/H \times \text{Rs}2,000$$
, where “N” means the number of hours of work she is required to perform in a fortnight and “H” the number of working hours in a fortnight of a comparable full-time worker.
- (5) Where a female worker, who has had at any time, 3 confinements, is pregnant, she shall not be entitled to the benefit specified in subsections (3) or (4), but shall be entitled to only the leave specified in subsection (1) without pay.
- (6) (a) A female worker who is nursing her unweaned child shall, for that purpose, be entitled every day at a time convenient to her and having regard to the needs of the child to at least –
- (i) 2 breaks of half-hour; or
 - (ii) one break of one hour.
- (b) The break specified in paragraph (a) shall not be deducted from the number of hours of work of the worker.
- (7) An employer shall not, at the request of a female worker, require the female worker to perform overtime or work during night shift 2 months before confinement.

- (8) A female worker who is pregnant shall not be required to perform duties –
 - (a) requiring continuous standing; or
 - (b) that may be detrimental to her health and that of her baby, subject to medical recommendation.

- (9) No employer shall give to a female worker, who is on maternity leave, notice of termination of employment for any reasons, unless the grounds relate to the operational requirements of the employer's activity –
 - (a) during such leave; or
 - (b) that would expire during such leave.

- (10) (a) Subject to paragraphs (b) and (c), where a female worker gives birth to a still-born child, she shall, upon the recommendation of her medical practitioner, be entitled to a maximum of 12 weeks' leave.
 - (b) At least 2 weeks of the leave specified in paragraph (a) shall be with pay and in case the period of the leave recommended is more than 2 weeks, the female worker shall be eligible to –
 - (i) take the leave from her sick leave entitlement under section 28(1)(a) or (2)(a) in the first instance;
 - (ii) take the leave from her bank sick leave under section 28(1)(b) or (2)(b), after having exhausted all the leave specified in subparagraph (i); or
 - (iii) take the leave without pay.
 - (c) Where the female worker opts to take the maximum of 12 weeks' leave specified in paragraph (a), the leave shall be deductible from the 3 confinements provided for under subsection (5).

- (11) Where a worker suffers a miscarriage which is duly certified by a medical practitioner, she shall be entitled to a maximum of 2 weeks' leave on full pay.

- (12) Any period of absence under subsection (10) or (11) shall be deemed to be absence from work with the consent of the employer.

31. Paternity leave

- (1) A male worker shall, on production of a medical certificate certifying the birth of his child from his spouse, be entitled to 5 continuous working days' leave, to be known as paternity leave.

- (2) Paternity leave shall be taken within a period of one week from the birth of the child and shall be on full pay, where the male worker has

been in continuous employment with the same employer for at least 12 months.

- (3) In this section, "spouse" means the person with whom the worker had contracted civil or religious marriage and with whom he was living under a common roof at the time of delivery.

32. Other facilities

- (1) Where the Permanent Secretary or a government medical officer is of opinion that no adequate arrangements exist to provide for the nursing of children of workers, he may, by written notice served on the employer, give such directions to the employer as he thinks fit.
- (2) An employer shall comply with the directions given to him by a government medical officer or the Permanent Secretary under subsection (1).

PART VII – ENTITLEMENT OF WORKERS IN THE SUGAR INDUSTRY

33. Interpretation of Part VII

In this Part-

"employer" means a person who owns either a sugar factory or land under sugar cane cultivation of an extent exceeding 10.5522 hectares (25 arpents) in aggregate;

"Remuneration Order Regulations" means -

- (a) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983; or
- (b) the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985,

as the case may be;

"worker" –

- (a) has the same meaning as in paragraph 2(1) of any of the Remuneration Order Regulations;
- (b) includes a person specified in paragraph 2(2) of the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985;

34. Continued employment of existing workers in the sugar industry

Subject to –

- (a) this Act;

- (b) section 23 and 23A of the Sugar Industry Efficiency Act 2001; and
- (c) section 24 of the Cane Planters and Millers Arbitration and Control Board Act,

every worker in employment on 31 May 2001 shall be entitled to remain in the employment of his employer.

35. Workers employed by job contractor

- (1) Where a worker is employed by a job contractor for the purposes of –
 - (a) land preparation, growing, harvesting or processing of sugar cane and the construction, repair or maintenance of roads, bridges or water works, structures or buildings, wholly or substantially required for the purposes of the sugar industry and any other work incidental to the exploitation of land; or
 - (b) the transport of canes, sugar, materials or supplies used in connection with any work specified in paragraph(a),this Act, the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 and the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985 shall apply to the job contractor in the same manner as it applies to an employer in those enactment.
- (2) Where an employer has recourse to one or more job contractors, the total number of man-days performed by –
 - (a) workers employed by the job contractor; and
 - (b) seasonal workers employed by the employer,shall not, in any year, exceed 20 per cent of the total number of man-days performed in that year by workers in employment under section 34.
- (3) Every employer shall, on or before 31 January of every year, submit to the Permanent Secretary, separate returns in respect of agricultural workers and non-agricultural workers, showing in respect of the preceding year –
 - (a) the number of workers employed by him under section 34;
 - (b) the number of seasonal workers employed by him under subsection 2(b);
 - (c) the number of workers employed by job contractors under subsection 2(a); and
 - (d) the number of man-days performed by the workers referred to in paragraphs (a), (b) and (c).

PART VIII – TERMINATION OF AGREEMENT

36. Termination of agreement

- (1) Subject to any express provision of an agreement and to subsections (2), (3), (4) and (5), every agreement shall terminate on the last day of the period agreed upon or on the completion of the specified piece of work.
- (2) A party to an agreement, other than an agreement entered into for a specified piece of work or for a specified period of time, shall on the termination of the agreement, be deemed to have entered into a fresh agreement upon the same terms and conditions as the previous agreement unless notice has been given by either party to terminate the agreement in accordance with section 37.
- (3) Where a worker is ill-treated by his employer, he may claim that the agreement has been terminated by his employer.
- (4) An agreement shall be broken by the employer, where he fails to pay the worker the remuneration due under the agreement.
- (5) Where a worker absents himself from work for more than 2 consecutive working days without good and sufficient cause, the employer –
 - (a) shall, where it occurs for the first time, administer a written warning to the worker;
 - (b) may, where it occurs on a second or subsequent occasion, consider the agreement as having been terminated.

37. Notice of termination of agreement

- (1) A party to an agreement, other than an agreement for a specified piece of work or for a period of time may, except where he is prohibited by an enactment from doing so, terminate the agreement on the expiry of a notice given by him to the other party of his intention to terminate the agreement.
- (2) Notice may be verbal or written and may, subject to subsection (3), be given at any time.
- (3) Subject to any provision of an agreement, the length of the notice to be given under subsection (1) shall be of 30 days.
- (4) Any party may, in lieu of giving notice of termination of agreement, pay to the other party the amount of remuneration the worker would have earned had he remained in employment during the period of notice.

38. Protection against termination of agreement

- (1) The employment of a worker shall not be terminated by reason of –
 - (a) a worker's race, colour, national extraction, social origin, pregnancy, religion, political opinion, sex, sexual orientation , HIV status, marital status or family responsibilities;

- (b) a worker's absence from work during maternity leave;
 - (c) a worker's temporary absence from work because of injury or sickness duly notified to the employer and certified by a medical practitioner;
 - (d) a worker becoming or being a member in a trade union, seeking or holding of trade union office, or participating in trade union activities outside working hours or, with the consent of the employer, within working hours;
 - (e) the worker's filing in good faith of a complaint, or participating in proceedings against an employer involving alleged breach of any terms and conditions of employment;
 - (f) a worker's exercise of any of the rights provided for in this Act or other enactment, agreement, collective agreement or award.
- (2) No employer shall terminate a worker's agreement –
- (A) for reasons related to the worker's misconduct or poor performance, unless –
 - (a) he cannot in good faith take any other course of action;
 - (b) he has afforded the worker an opportunity -
 - (i) to answer any charges made against him related to his poor performance; or
 - (ii) to answer within 10 days of the day on which he becomes aware of the misconduct any charges made against the worker;
 - (c) the worker has been given 5 days' notice to answer any charges made against him; and
 - (d) the termination is effected not later than 7 days after the worker has answered the charges made against him.
 - (B) unless, where an alleged misconduct is subject of criminal proceedings, the dismissal is effected within 7 days of the day on which the employer becomes aware of the final judgement of conviction.
 - (C) in every other case, the day on which the employer becomes aware of the misconduct.
- (3) Where the opportunity afforded to a worker to answer any charges made against him under subsection 3(A)(b)) is the subject of a hearing, he may have the assistance of –
- (a) a workplace representative, a representative of his trade union, a legal representative; or
 - (b) an officer, where he is not assisted as specified in subparagraph (a).

- (4) Where an employer suspends a worker pending the outcome of disciplinary proceedings against the worker on account of the worker's misconduct or performance –
 - (a) any period of such suspension shall be on full pay;
 - (b) any extension to the delay provided for under sub-section 3(A)(b) shall be without pay if the request is made by or on behalf of the worker.

39. Worker under notice of termination

During the period when a worker is under notice of termination of agreement under section 37, the employer shall, on satisfactory proof of the purpose of the request, allow the worker reasonable time-off, without loss of pay, to seek further employment.

PART IX – WORKFARE PROGRAMME

40. Interpretation of Part IX

In this Part-

"worker" does not include -

- (a) a public officer;
- (b) a person employed by a parastatal body or by a local authority;
- (c) a part-time worker;
- (d) a worker employed in the sugar industry who voluntarily retires –
 - (i) in the context of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001;
 - (ii) an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001; or
 - (iii) a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.
- (e) a person reckoning less than 6 months continuous employment with an employer as at the date of his termination of employment.

"basic wage or salary" means, in relation to a worker, the basic wage or salary on which contributions to the National Savings Fund are paid.

41. Workfare Programme

- (1) There is established for the purposes of this Act a Workfare Programme.
- (2) The Workfare Programme shall consist of –

- (a) the payment of a transition unemployment benefit to every worker whose employment has been terminated and who opts to join the Workfare Programme;
- (b) assistance by the relevant statutory body referred to in section 43(4)(d) or (e) for any of the following activities –
 - (i) job placement;
 - (ii) training and re-skilling; or
 - (iii) starting up of a small business.

42. Eligibility to join the Workfare Programme

- (1) A worker whose employment has been terminated by an employer–
 - (a) for reasons specified in section 36(3) and (4);
 - (b) in contravention of section 38(1) and (2);
 - (c) for reasons of –
 - (i) economic, technological, structural or similar nature affecting the enterprise;
 - (ii) poor performance; or
 - (iii) misconduct;

shall be entitled to join the Workfare Programme.
- (2) (a) A worker referred to in subsection (1) shall register himself with the Permanent Secretary within 7 days of the termination of his employment.
- (b) The Permanent Secretary may, on good cause shown to his satisfaction, extend the time within which registration under subsection (1) may be made.

43. Transition unemployment benefit

- (1) Subject to subsection (4), every worker who has been registered in the Workfare Programme shall be entitled to a transition unemployment benefit for a minimum period of one month and for a period not exceeding 12 months at the rates specified in the Fourth Schedule.
- (2) The transition unemployment benefit shall be financed as specified in the Fifth Schedule.
- (3) The National Pensions Fund Contribution under section 17 of the National Pensions Act shall be paid from the Workfare Programme Fund under section 45(3) in respect of a worker for the period during which he is a beneficiary of the transition unemployment benefit, on the basis of the basic wage or salary of the worker before the termination of his employment.

- (4) The transition unemployment benefit shall cease to be payable as from the day the worker –
 - (a) opts out from any of the activities of the Workfare Programme;
 - (b) becomes gainfully employed;
 - (c) refuses an offer for job placement;
 - (d) is admitted by the Human Resource Development Council to a training or re-skilling scheme;
 - (e) sets up a small business with the assistance of the Small Enterprises and Handicraft Development Authority; or
 - (f) reaches the age of 60.

44. Election for Workfare Programme

- (1) A worker whose employment has been terminated on grounds specified in section 42(1)(c)(i) shall be entitled only to benefits under the workfare programme.
- (2) Where a worker registers himself in the Workfare Programme, he shall, within 3 days, opt for any of the activities under section 41(2)(b) and the Permanent Secretary shall refer the worker to either –
 - (a) the Employment Service of the Ministry for job placement;
 - (b) the Human Resource Development Council for training and re-skilling; or
 - (c) the Small Enterprises and Handicraft Development Authority for self employment activities, including starting up of small business.
- (3) Upon election by the worker of any of the activities of the Workfare Programme, the Permanent Secretary shall notify the Permanent Secretary of the Ministry responsible for social security, in the form specified in the Sixth Schedule, for payment of the transition unemployment benefit.

45. Establishment of the Workfare Programme Fund

- (1) There is established for the purposes of this Act a Workfare Programme Fund which shall be managed by the National Savings Fund.
- (2) There shall be paid into the Workfare Programme Fund –
 - (a) money collected by way of levy at the rates specified in the Second Schedule of the Human Resource Development Act 2003;

- (b) all monies appropriated by the National Assembly for the purposes of the Workfare Programme; and
 - (c) interest on investments.
- (3) There shall be paid out of the Workfare Programme Fund –
- (a) the transition unemployment benefit payable at the rate specified in paragraphs 1(b) or 2 of the Fifth Schedule;
 - (b) the National Pensions Fund contribution of workers payable under section 44(6); and
 - (c) all expenses incurred in the administration of the Workfare Programme Fund.

PART X – SEVERANCE ALLOWANCE

46. Payment of Severance Allowance

- (1) Where a worker has been in continuous employment for a period of not less than 12 months with an employer and the employer terminates his employment for reasons specified in section 42(1)(a) and (b), the employer shall pay severance allowance to the worker.
- (2)
 - (a) No worker shall cease to be in the continuous employment of any employer by reason of his participation in a strike which is not unlawful under the Employment Relations Act.
 - (b) Where a worker ceases to be in the employment of one employer and enters the employment of another under section 48(3), the employment of the worker by the first and second employer shall be deemed to be continuous.
- (3) Where a worker elects to claim severance allowance under section 44(2), the Permanent Secretary shall enquire into the matter with a view to promoting a settlement.
- (4) Where the matter under subsection (3) does not result in being satisfactorily settled, the Permanent Secretary –
 - (a) may enter proceedings before the Court if he is of the opinion that the worker has a *bona fide* case and thereupon the worker shall be entitled to be admitted in the Workfare Programme; or
 - (b) may not enter proceedings before the Court if he is of the opinion that the worker does not have a *bona fide* case and thereupon the worker shall not be entitled to be admitted in the Workfare Programme.

- (5) Where the matter under subsection (3) is settled to the satisfaction of the worker, other than a settlement by reinstatement, the worker shall be entitled to be admitted to the Workfare Programme.
- (6) The Court shall, where it finds that –
- (i) the termination of agreement of a worker was due to the reasons specified under section 36(3) and (4);
 - (ii) the termination of agreement of a worker was in contravention of subsections 38(1) and (2); or
 - (iii) the reasons related to the worker's alleged misconduct or poor performance under section (38)(2) do not constitute valid reasons for the termination of employment of the worker,
- order that the worker be paid –
- (a) for every period of twelve months of continuous employment, a sum of not less than one and not more than six months remuneration; and
 - (b) for every period less than twelve months, a sum equal to one twelfth of the appropriate sum calculated under paragraph (a) multiplied by the number of months during which the worker has been in continuous employment of the employer.
- (7) Where the Permanent Secretary has not entered proceedings on behalf of a worker under subsection (4)(b) and the worker has instituted proceedings before the Court on his own and the Court has given judgment in favour of the worker as per subsection (6), the worker shall be eligible to be admitted to the Workfare Programme as per date of judgment.
- (8) Where a matter is referred to the Permanent Secretary under subsection (3) or to the Court under subsection (4)(a), the employer may not set up as defence that the worker has abandoned his employment unless he proves that the worker has, after having been given written notice –
- (a) by post with advice of delivery; or
 - (b) by service at the residence of the worker,
- requiring him to resume his employment, failed to do so within a time specified in the notice which shall not be less than 24 hours from the receipt of the notice.
- (9) Subsection (8) shall not apply in relation to a worker who has notified the termination of his employment in writing.
- (10) Where a worker's remuneration is fixed at a rate calculated on work done or includes any sum paid by way of commission in return for services, his remuneration shall, for the purposes of this section, be

computed in the manner best calculated to give the rate at which the worker was being remunerated over a period not exceeding 12 months prior to the termination of his employment.

- (11) The Court may, where it thinks fit and whether or not a claim to that effect has been made, order an employer to pay interest at a rate not exceeding 12% on the amount of severance allowance payable from the date of the termination of the agreement to the date of payment.
- (12) For the purposes of this section, the remuneration which shall be taken into account in calculating the severance allowance shall be the remuneration payable to a worker at the time of the termination of his employment.

47. Notification by employer of termination of employment

Any employer who –

- (1) intends to reduce any number of workers or to close down his enterprise for reasons of an economic, technological, structural or similar nature; or
- (2) terminates the employment of a worker for any other reasons,

shall in the form specified in the Seventh Schedule give written notice thereof to the Minister

48. Payment of recycling fee

- (1)
 - (a) Subject to subsection (2), where an employer terminates the employment of a worker, he shall in respect of that worker, pay, not later than 30 days from the date of termination of employment of the worker, to the National Pensions Fund for credit to the National Savings Fund a recycling fee according to the rates specified in the Eighth Schedule.
 - (b) An employer shall, at the time of payment of the recycling fee under paragraph (a), submit the Form specified in the Eighth Schedule, duly vetted by the Permanent Secretary.
 - (c) The recycling fee payable under paragraph (a) shall be credited into the National Savings Fund Account of the worker under section 5(b) of the National Savings Fund Act.
- (2) No recycling fee shall be payable where -
 - (a) an employer dies and his worker is employed or offered employment by the personal representative or heir of the deceased employer forthwith after the death;
 - (b) a worker's employment by a partnership ceases on the dissolution of the partnership, and he is employed or offered

employment by a member of the dissolved partnership or a new partnership forthwith after the dissolution;

- (c) a worker's employment by a body corporate ceases on the dissolution of that body and he is employed or offered employment by some other corporate body in accordance with an enactment or a scheme of reconstruction forthwith after the dissolution; or
- (d) a worker's employment ceases on the disposal by his employer of the goodwill, or of the whole or a substantial part of the business, or of that part of the business in which he is employed and he is employed or offered employment by the person who acquires the goodwill or business or part of the business forthwith after the disposal,

on terms and conditions which are not less favourable than those of the former agreement.

- (3) Where a worker to whom an offer is made in writing in any of the circumstances specified in subsection (2) accepts the offer, he shall be deemed to enter the employment of the person by whom the offer is made forthwith upon the cessation of his employment with the first employer and the employment of the worker by the first and the second employer shall be deemed to be continuous.
- (4) Where a worker is deemed to be in continuous employment in accordance with subsection (3) and that continuous employment is terminated in circumstances in which the recycling fee under subsection (1) or severance allowance under section 46 is payable, the employer in whose service the worker was employed immediately before the termination shall be deemed to be the employer during the whole of the period and shall be liable to pay the recycling fee or severance allowance as the case may be.

49. Deductions from severance allowance

- (1) An employer may deduct from the severance allowance payable –
 - (a) any gratuity granted by the employer;
 - (b) any contribution made to any fund or scheme by the employer; and
 - (c) any recycling fee paid under section 47(1).
- (2) In this section, "fund" or "scheme" means any pension or provident fund or scheme, other than the fund established under the National Pensions Act, set up by the employer for the benefit of a worker.

50. Gratuity on retirement

- (1) An employer shall pay a gratuity to a worker who has been in continuous employment with him for a period of 12 months or more where -
 - (a) the worker, on or after attaining the age of 60, retires voluntarily or at the request of his employer; or
 - (b) the worker who has been in continuous employment with the same employer for not less than 10 years retires before the age of 60 on grounds of permanent incapacity to perform his work and such incapacity is duly certified by a Government Medical Practitioner.

- (2) The gratuity referred to in subsection (1) shall be paid in a lump sum and shall be calculated –
 - (a) in the case of a worker, other than a part time worker, on the basis of -
 - (i) 15 days' remuneration for every period of twelve months' continuous employment; and
 - (ii) a sum equal to one twelfth of the appropriate sum calculated under paragraph (a)(i) multiplied by the number of months during which the worker has remained in the continuous employment of the employer for every period less than twelve months.
 - (b) in the case of a part time worker, on the basis of the following formula –

$N/H \times$ amount of gratuity payable under subsection (a), where “N” means the number of hours of work performed by the part time worker in a fortnight and “H” means the number of hours of work performed by a comparable full time worker in a fortnight.

- (3) An employer may deduct from any gratuity payable under subsection (2) -
 - (a) half the amount of any gratuity due at the age of 60 from any fund or scheme, computed by reference only to the employer's share of contributions;
 - (b) 5 times the amount of any annual pension granted at the age of 60 from any fund or scheme, computed by reference only to the employer's share of contributions;
 - (c) any gratuity granted at the age of 60 by the employer;
 - (d) 10 times the amount of any annual pension granted at the age of 60 by the employer,

provided that in the case of the worker who retires under subsection (1)(b), the gratuity and pension specified in this subsection shall be deemed to be the gratuity and pension which would have been payable had the worker retired at the age of 60 under any fund or scheme;

- (4) Where a worker exercises an option to take a deferred or immediate pension in lieu of the repayment of past contributions, the amount of the deduction under subsection (3) shall be calculated as though the worker has not exercised that option.
- (5) In this section, "fund or scheme" means any pension or provident fund or scheme, other than the fund established under the National Pensions Act, set up by the employer for the benefit of a worker.
- (6) For the purposes of this section –
 - (a) the remuneration which shall be taken into account in calculating the gratuity shall be the remuneration payable to a worker at the time of the retirement;
 - (b) a day's remuneration means remuneration calculated on the basis of 12 hours work for a watchman or a security guard and 8 hours work for any other worker.

51. Certificate of employment

- (1) Every employer shall provide a worker, whose employment has been terminated, with a certificate of employment in the form prescribed in the Ninth Schedule within 7 days of the termination of his employment.
- (2) No employer shall insert in the certificate issued under subsection (1) any particulars other than those specified in the Ninth Schedule.

52. Termination of appointment under the Constitution

- (1) Subject to subsections (2) and (3), where an appointment is terminated under section 92 or 113 of the Constitution, the holder of the office whose appointment is terminated shall -
 - (a) where he has served for a period of 3 years or more, be eligible to compensation representing 3 months' salary;
 - (b) where he has served for a period of less than 3 years be eligible to compensation representing one month's salary.
- (2) Notwithstanding anything to the contrary in any agreement, no gratuity or severance allowance shall be payable to the holder of any office the appointment to which is terminated under section 92 or 113 of the Constitution.
- (3) Where the holder of an office to which subsection (1) applies was, immediately before his appointment to that office, the holder of a public office or in employment with a statutory body -
 - (a) he shall be entitled to resume his former office; or

- (b) where the former office is no longer vacant, he shall be deemed for the purposes of any other enactment to have retired from the office vacated on the ground of abolition of that office.

PART XI - VIOLENCE AT WORK

53. Violence at work

- (1) Any person who –
 - (a) assaults,
 - (b) verbally abuses, swears at or insults;
 - (c) expresses the intention to cause harm, including bullying and threatening behaviour against;
 - (d) uses aggressive gesture indicating intimidation, contempt or disdain towards;
 - (e) harasses;
 - (f) by words or act, hinders,

a worker, in the course of or as a result of his work, shall commit an offence and shall, on conviction, be liable to a fine of not less than 10,000 rupees and not more than 75,000 rupees and to imprisonment for a term not exceeding 2 years.

PART XII – JOB CONTRACTORS

54. Issue of permit

- (1) No person shall work as a job contractor unless he holds a permit issued by the Permanent Secretary.
- (2) Any person who wishes to work as a job contractor shall apply to the Permanent Secretary for a permit.
- (3) On receipt of an application under subsection (2), the Permanent Secretary may, after making such inquiry as he thinks fit –
 - (a) refuse to grant a permit and specify the ground of his refusal;
 - (b) grant the permit subject to such conditions as he thinks fit.
- (4) Any condition imposed under subsection (3) shall be endorsed on the permit.
- (5) The Permanent Secretary may revoke the permit of a job contractor where the job contractor–
 - (a) persistently fails to comply with legislation regarding terms and conditions of employment of workers employed by him;

(b) acts in breach of the conditions specified by the Permanent Secretary under subsection (3)(b)

55. Joint liability of employer and job contractor

- (1) Subject to subsection (3), a job contractor and his principal shall be jointly and severally liable for the payment of the remuneration of any worker employed by the job contractor in relation to his agreement with the principal.
- (2) Subject to subsection (3) and Part VIII, a job contractor and his principal shall be jointly and severally liable for the payment of any severance allowance to a worker employed by the job contractor in relation to his agreement with the principal.
- (3) The liability of the principal of a job contractor under subsections (1) and (2) shall be limited to the sum payable by him to the job contractor under the arrangement between them, or to the sum payable in respect of the time during which the workers employed by the job contractor have worked, whichever is less.
- (4) No person who is jointly liable with a job contractor under subsection (1) may set up as a defence to a claim from a worker seeking to recover remuneration the fact that he has already paid to the job contractor any sum due under the arrangement with the job contractor.

56. Remuneration to be privileged debt

- (1) Subject to subsection (2), every worker employed by a job contractor shall, for securing payment of his remuneration, have the same privileges, in respect of the property of the principal, as he would have had if he had been directly employed by the principal without the intervention of the job contractor.
- (2) Any amount recoverable under subsection (1) shall not exceed the amount payable by the principal to the job contractor under section 55(3).

PART XIII – RECORDS AND ADMINISTRATION

57. Register of employers

- (1) Every employer who has 10 or more workers shall apply to the Permanent Secretary for registration under this Act.
- (2) Every application made under subsection (1) shall be made in the prescribed form.

- (3) The Permanent Secretary shall maintain a register of employers.

58. Keeping of records

- (1) Every employer referred to in section 57 shall keep a register of workers, a record of remuneration paid, an inspection report book, and such other records as may be prescribed, and shall retain these records for a period of 3 years.
- (2) There shall be sufficient compliance if an employer keeps the information specified in subsection (1) in an electronic form.
- (3) Every employer shall –
 - (a) enter, in the register of workers, the name, the date of birth and the date of employment of every worker and the nature and conditions of the work he performs;
 - (b) enter, in the record of remuneration paid, the days or periods during which a worker has worked and the remuneration and other benefits paid to the worker.
- (4) Every employer shall, on request -
 - (a) produce to an officer any records kept under subsections (1) and (3)
 - (b) sign any entry made in the inspection report book by an officer;
 - (c) submit to the Permanent Secretary such particulars as may be required.

59. Labour inspection

The Ministry shall be responsible for maintaining a labour inspection service which shall –

- (a) administer, and ensure the enforcement of this Act and any other enactment relating to labour or employment;
- (b) provide information to employers and workers concerning the enforcement of this Act and any other enactment relating to labour or employment;
- (c) bring to the notice of the Minister defects or abuses not specifically covered by this Act or any other enactment relating to labour or employment.

60. Power to make enquiries

- (1) The Permanent Secretary may –

- (a) enter without previous notice, at any hour of the day or night, any place of work, other than premises used solely for residential purposes except with the permission of the occupier thereof;
 - (b) enter by day and without previous notice any premises which he has reasonable cause to believe to be a place of work other than premises used solely for residential purposes except with the permission of the occupier thereof;
 - (c) carry out any examination or enquiry which he may consider necessary in order to satisfy himself that this Act or any other enactment relating to labour or employment is being strictly observed;
 - (d) interview alone or in the presence of any other person, as he thinks fit and at such place he deems appropriate, the employer or his representative and any person employed in the enterprise, regarding to labour, and any such person shall answer such questions truly to the best of his ability provided that no such person shall be required to give any information tending to incriminate himself;
 - (e) require the production of any books, records or other documents, whether prescribed by law or kept by the employer, relating to terms and conditions of employment, in order to ascertain whether this Act or any other enactment relating to labour or employment is being complied with, and copy such documents or make extracts therefrom;
 - (f) enforce the posting of notices as may be required by this Act or any other enactment relating to labour or employment;
 - (g) require an employer to submit in writing any information relating to remuneration, and terms and conditions of employment, of a worker, as well as the worker's name, address, date of birth, date of commencing employment and category;
 - (h) require an employer or his representative to furnish the facilities and assistance required for entry, inspection, examination or enquiry in the exercise of any of the powers conferred under this Act or any other enactment relating to labour or employment.
- (2) The Permanent Secretary shall, on the occasion of an inspection visit, notify the employer or the employer's representative of his presence, unless neither of them is present or easily accessible at that time or he considers that such notification may be prejudicial to the performance of his duties.
- (3) The Permanent Secretary may be accompanied by a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duties.
- (4) Any person who –

- (a) willfully impedes or delays the Permanent Secretary in the exercise of any power under this Act or any other enactment relating to labour;
- (b) fails to comply with a requirement or request or to answer a question of the Permanent Secretary under subsection (1);
- (c) conceals or prevents any person from appearing before or being examined by the Permanent Secretary or authorised officer, or attempts to do so,

shall be deemed to obstruct the Permanent Secretary in the execution of his duties under this Act or any other enactment relating to labour or employment.

61. Power to summon

- (1) Where the Permanent Secretary –
 - (a) has reason to believe that an offence relating to the observance of this Act or any other enactment relating to labour or employment has been committed by an employer; or
 - (b) wishes to enquire into a matter concerning a dispute between an employer and his workers or their representatives;
 - (c) he may, by written notice, summon any person who he believes can provide information relating to the offence or the enquiry to attend and produce any document which he may require.
- (2) Any person summoned under subsection (1) who-
 - (a) fails to attend at the time and place specified in the notice;
 - (b) refuses to answer faithfully any question put to him by the Permanent Secretary;
 - (c) gives any false or misleading information;
 - (d) refuses to produce a document required by the Permanent Secretary,
 shall commit an offence.
- (3) (a) The written notice specified in subsection (1) shall be issued to the person concerned by causing it to be –
 - (i) handed over to him in person; or
 - (ii) left at, or sent by registered post to, his usual or last known place of business or residence.
- (b) Where a person to whom a written notice is issued in accordance with paragraph 3(a) (i)(ii) -
 - (i) refuses to accept delivery of the written notice; or
 - (ii) fails to take delivery of the written notice after being informed that it awaits him at a post office,

the written notice shall be deemed to have been issued to him on the day on which he refuses to accept delivery thereof or he is informed that it awaits him at a post office.

62. Complaint procedure

- (1) Any worker may make a complaint to the Permanent Secretary against his employer or any agent of the employer, in respect of any matter arising out of his employment.
- (2) An employer or any agent of the employer who prevents a worker from making a complaint to the Permanent Secretary under subsection (1) shall commit an offence.

PART XIV – LABOUR ADVISORY COUNCIL

63. Establishment of the Council

- (1) There shall be established, for the purposes of this Act, a Labour Advisory Council.
- (2) The Council shall consist of an equal number of public officers, representatives of employers and representatives of workers.
- (3) The members of the Council shall be appointed by the Minister for such period and on such terms and conditions as he may determine.
- (4) The Chairperson of the Council shall be appointed by the Minister from among the public officers.
- (5) The Council may co-opt members as and when required but they shall have no right to vote.
- (6) The appointment of every member of the Council shall be published in the **Gazette**.
- (7) The Council shall regulate its proceedings in such manner as it thinks fit.

64. Functions of the Council

- (1) The Council shall consider, on request of the Minister or upon its own initiative, and advise the Minister on, any matter relating to labour and employment, including –
 - (a) the review of the operation and enforcement of this Act and any other enactment relating to employment rights;
 - (b) Government replies to questionnaires concerning items on the agenda of the International Labour Conference and Government

- comments on proposed texts to be discussed by the Conference;
- (c) proposals to be made in connection with the submission of International Labour Organisation Conventions and Recommendations to the National Assembly;
 - (d) the re-examination of unratified ILO Conventions and of Recommendations to which effect has not yet been given, and consideration of measures to be taken to promote their implementation or ratification;
 - (e) questions arising out of reports to be made to the ILO on ratified Conventions;
 - (f) proposals for the denunciation of ratified ILO Conventions.
- (2) The Council shall exercise such other duties and powers in such manner and subject to such conditions as the Minister may, by regulations, direct.

65. Meetings of the Council

The Council shall meet at the request of the Chairperson at such time and place as he may determine.

PART XV – MISCELLANEOUS

66. Regulations

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide for the amendment of the Schedule.

67. Offences

- (1) Any person who –
 - (a) prevents a worker from appearing before the Permanent Secretary, or the Labour Advisory Council;
 - (b) fails or neglects to pay remuneration;
 - (c) fails or neglects to pay remuneration within the prescribed time;
 - (d) makes, or knowingly allows to be made, any entry in a record required to be kept by an employer which he knows to be false or misleading in a material particular;
 - (e) fails to credit a worker with the full amount of work done;

- (f) for the purposes of this Act, produces, furnishes or knowingly allows to be produced or furnished any register, report, book, remuneration sheet, record, list, documents or information which he knows to be false or misleading in a material particular;
 - (g) is liable to provide work or to pay remuneration in lieu of work and who fails to provide the work or pay the remuneration;
 - (h) obstructs the Permanent Secretary in the exercise of his powers or duties under this Act or any other enactment;
 - (i) contravenes –
 - (i) any other provision of this Act or of any subsidiary enactment made under this Act;
 - (ii) any order made by the Court;
 - (iii) any order or direction given under this Act;
 - (iv) the conditions of any permit or certificate granted under this Act;
 - (v) the conditions of any authority issued, or approval given under this Act,
 shall commit an offence.
- (2) Any person who commits an offence shall, on conviction, be liable to a fine of not exceeding ten thousand rupees and to imprisonment for a term not exceeding one year.
- (3) The Court may, on the conviction of any person under this Act, where it thinks appropriate, make an order directing that person to comply with this Act within such time as may be fixed in the order.

68. Repeal

The Labour Act is repealed.

69. Consequential amendments

- (1) The National Savings Fund Act is amended-
- (a) in section 2-
 - (i) by inserting in the appropriate alphabetical order the following definitions -
 - “lump sum” means
 - (a) where entitlement arises on ground of death of the employee or retirement as defined at paragraph (a) or (b)(i) or (b)(iii) of the definition of “retirement”, a lump sum made up of any balance, including any balance of the recycling fee in the

National Savings Fund account of the employee including any balance of the recycling fee; or

- (b) where entitlement arises on ground of retirement as defined at paragraph (b)(ii), (iv), (v) or (vi), a lump sum made up of the 2.5% contributions paid by the employer and interest accrued thereon.

“retirement”-

- (a) means the attainment of age 60; and
- (b) includes -
 - (i) retirement from employment on ground of age as provided for under the Employment Rights Act, a pension law or under a Remuneration Order;
 - (ii) retirement on medical ground duly certified by a Government Medical Officer or a medical practitioner in the service of the employer;
 - (iii) in respect of a member of the Police Force, retirement after the completion of 25 years of pensionable service;
 - (iv) the loss of employment on or after attaining the age of 45 as a result of the cessation of business, reduction of workforce or redundancy;
 - (v) voluntary retirement in the context of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act 2001, an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act 2001 or a factory closure pursuant to section 24 of the Cane Planters and Millers Arbitration and Control Board Act.
 - (vi) the loss of employment as a result of the cessation of business, reduction of workforce or redundancy and the employee has opted to set up a business with the assistance of the Small Enterprises and Handicraft Development Authority under section 44(2)(c) of the Employment Rights Act 2007.

- (ii) in the definition of “basic wage or salary”, by adding immediately after the words “ the Additional Remuneration Act” the words “but does not exceed the

maximum basic wage or salary specified in the Second Schedule to the National Savings Fund (Collection of Contributions) Regulations 1997”

- (b) in section 4(a), by deleting the words “ at the age of 60 or earlier, or on his death” and replacing them by the words “ or in respect of every employee, at the time of his death”
- (c) by repealing section 5 and replacing it by-

5. Contributions to the Fund

- (1) Subject to section 5A, every employer shall, in respect of every month and in respect of every employee who works during that month, pay an amount of contribution as specified in the First Schedule into the National Pensions Fund for credit to the Fund.
 - (2) The employer of an employee referred to in item 2 of the First Schedule shall, at the time of paying to the employee his basic wage or salary for any period, deduct therefrom one per cent of the basic wage or salary and pay over that sum to the National Pensions Fund for credit to the Fund.
- (d) by inserting after section 5A, the following new sections -

5B. National Savings Fund Account of Employees

- (1) The Fund shall, in respect of every employee, hold a National Savings Fund Account into which shall be credited-
 - (a) the 2.5% contributions payable by the employer under section 5.
 - (b) the 1% contributions payable by the employee under section 5.
 - (c) the recycling fee payable under section 48 of the Employment Rights Act 2007.
 - (d) any interests earned on the contributions and the recycling fee as determined by such actuary designated by the Minister.
- (2) There shall be paid out of the National Savings Fund Account of employees -
 - (a) any lump sum;
 - (b) the Transition Unemployment Benefit payable at the rate specified at item 1 of the Second Schedule; and
 - (c) any other benefit that may be prescribed.

5C. Transition Unemployment Benefit

- (1) Every employee who is registered in the workfare programme set up under section 41 of the Employment Rights Act 2007, shall be entitled to a Transition Unemployment Benefit.
- (2) No Transitional Unemployment Benefit shall be paid to an employee unless he is registered with the Permanent Secretary responsible for labour, and the Permanent Secretary responsible for labour notifies, under section 44(3) of the Employment Rights Act, the Permanent Secretary of the Ministry responsible for social security in the form prescribed as to the entitlement of the employee to the Transitional Unemployment Benefit.
- (3) The Transition Unemployment Benefit shall be paid –
 - (a) at the rate specified in the Third Schedule;
 - (b) for a period of not less than one month and not more than 12 consecutive months,as specified in section 43(1) of the Employment Rights Act 2007.
- (4) Where an employee ceases to be entitled to the Transition Unemployment Benefit under section 43(4) of the Employment Rights Act 2007, the Permanent Secretary responsible for labour shall forthwith notify, on an approved form, the Permanent Secretary responsible for social security

5D. Workfare Programme Fund

- (1) The Workfare Programme Fund established under section 45 of the Employment Rights Act 2007 shall hold an account to be known as the Workfare Programme Account.
- (2) The account shall be credited with-
 - (a) the levy payable at the appropriate rate specified in the Second Schedule of the Human Resource Development Act 2003;
 - (b) all monies appropriated by the National Assembly for the purposes of the workfare programme; and
 - (c) any interests on investments.

- (3) There shall be paid out of the account-
 - (a) the Transition Unemployment Benefit payable at the rate specified at item 1 or 2, as the case may be, of the Second Schedule;
 - (b) the National Pensions Fund contribution payable under section 44(4) of the Employment Rights Act 2007;
 - (c) all expenses incurred in the administration of the Workfare Programme Fund.

5E. Recovery of Overpayment

- (1) Where a lump sum, a Transition Unemployment Benefit or any other benefit has been paid into a bank account of a claimant and it is subsequently found by the Permanent Secretary that the lump sum or benefit should not have been so paid, the bank shall, on written request to that effect by the Permanent Secretary, refund the amount so paid to the Fund and may debit the bank account accordingly.
- (2)
 - (a) Where the bank account is closed, the bank shall not be required to refund to the Fund the amount paid under subsection (1).
 - (b) When the amount standing in the bank account is less than the amount paid under subsection (1) the bank shall refund only the amount standing in the bank account.
- (3) Notwithstanding any other enactment, where a refund is made under this section no action shall lie against the bank in respect of the amount so refunded.
- (4) Where an employee has received a Transition Unemployment Benefit to which he was not entitled, any amount overpaid may be recovered from any balance in his National Savings Fund Account.
- (e) in section 15, subsection (1), by repealing paragraph (c) and replacing it by the following paragraph:
 - (c) fails to comply with any other provision of the Act or any regulation made under the Act.
- (f) by adding at the end of the Act the Schedules in the Tenth Schedule to this Act.

- (2) The National Savings Fund (Claims and Payment) Regulations 1997 are amended in regulation 2, by deleting the definitions of ‘lump sum’ and ‘retirement’.
- (3) The National Savings Fund (Collection of Contributions) Regulations 1977 are amended by deleting the First Schedule.
- (4) The National Pensions Act is amended by inserting after section 17A, the following new section -
 - 17B. Contribution in respect of persons in receipt of Transition Unemployment Benefit.**
 - (1) Where a person is in receipt of the Transition Unemployment Benefit under Section 5C of the National Savings Fund Act, contributions at the rate of 9% of the basic wage or salary shall be paid in respect of that person to the Fund.
 - (2) The contributions under subsection (1) shall be paid out of the Workfare Programme Fund established under section 45 of the Employment Rights Act 2007.
- (4) The National Solidarity Fund Act 1991 is amended by repealing section 4A of the Act.
- (5) The Human Resource Development Act 2003 is amended in section 18 –
 - (a) by deleting subsection (2) and replacing it by the following:
 - (2) The levy under subsection (1) shall be payable on the employee’s total basic wage or salary excluding overtime, bonuses and allowances in respect of a month at the rate specified in the First Schedule.
 - (b) in subsection (3), by deleting paragraphs (d) and (e) and replacing them by the following paragraphs –
 - (d) be credited by the Ministry to a separate account to be kept by the Ministry;
 - (e) with respect to the rate specified in item 2 of the Second Schedule, be remitted by the Ministry to the Council at such intervals and subject to such terms and conditions as may be agreed upon between the Ministry and the Council;
 - (f) with respect to the rate specified in item 1 of the Second Schedule, be remitted by the Ministry to the Workfare Programme Fund under section 45 of the Employment Rights Act 2007.
 - (c) by deleting the “Schedule” and replacing it by the following Schedules

(a) **“First Schedule”**
[section 18(2)]

RATE OF LEVY
one and a half per cent”

(b) **“Second Schedule”**
[section 18(3)]

	Rate of levy
1. Separate Account in Workfare Programme Fund	One per cent
2. Separate Account for the National Training Fund	Half per cent

70. Transitional provisions

Where a person is already in employment on the date of coming into operation of section 8, the employer of that person shall, within 3 months, provide to the worker the written particulars specified therein.

71. Commencement

- (1) The Act shall come into operation on a day to be fixed by Proclamation.
- (2) Different dates may be fixed for the coming of operation of different sections of the Act.

FIRST SCHEDULE
(section 8)

WRITTEN PARTICULARS OF AGREEMENTS

The written statement of particulars of employment shall include –

- (a) the name, address and nature of activity of the employer;
- (b) the name, date of birth and address of the worker;
- (c) the date of commencement of the agreement;
- (d) the place of work;
- (e) the grade, class or category of employment, as appropriate;
- (f) the rate and particulars of remuneration;
- (g) the interval at which remuneration is to be paid;
- (h) the normal hours of work; and
- (i) leave entitlement.

SECOND SCHEDULE
[section 21(3)(a)]

PAYSLIP

Pay Period

1. Name of employer
2. NPF Reg. No. of employer
3. Name of worker
4. National Identity Number of worker
5. Date of entry
6. Category
7. Basic rate of pay
8. Total number of days present at work
9. No. of day(s) of leave taken (to specify)
10. Number of hours of extra work performed and the corresponding extra payment
 - (i) 1.5 x
 - (ii) 2 x
11. Allowance(s) paid (please specify)
12. Piece rate earnings
13. Total remuneration
14. Deduction(s) made and the reasons therefor
15. Next pay

THIRD SCHEDULE

[section 22(1)(a)(ii)]

Export Processing Zone Labour Welfare Fund
Mauritius Housing Company Ltd
National Solidarity Fund
National Pension Fund
Road Passenger Transport Industry Labour Welfare Fund
Tourism Industry Labour Welfare Fund
Sugar Industry Labour Welfare Fund

FOURTH SCHEDULE

[section 43(1)]

TRANSITION UNEMPLOYMENT BENEFIT

Period after termination of employment	Rate of benefit per month
First 3 months	90 percent of basic wage or salary
Next 3 months	60 percent of basic wage or salary
Next 6 months	30 percent of basic wage or salary

FIFTH SCHEDULE
[section 43(2)]

1. The transition unemployment benefit shall be financed from –
 - (a) the 1% contribution of the worker and the recycling fee in the National Savings Fund Account of the worker, to the level of 50 percent of the transition unemployment benefit; and
 - (b) the Workfare Programme Fund to the level of 50 percent of the transition unemployment benefit.

2. Where the accumulated funds under paragraph 1(a) are not sufficient, any shortfall to the set rates shall be met from the Workfare Programme Fund.

SIXTH SCHEDULE
[section 44(3)]

1. Particulars of Employer

- (a) Name
- (b) Phone number
- (c) National Pensions registration number
- (d) Address

2. Particulars of Worker

- (a) National Identity Card Number
- (b) Name
- (c) Phone number
- (d) Address
- (e) Occupation
- (f) Basic Wage /month'/fortnight'/week' (delete whichever not applicable)

3. Details of Employment

- (a) Date joined service
- (b) Date of termination of employment
- (c) Reason for termination of employment
- (d) Amount payable as recycling fee

I certify that the above-named worker is registered in the Workfare Programme and is entitled for the transitional unemployment benefit.

Date:

.....
Permanent Secretary
Ministry of Labour,
Industrial Relations &
Employment

SEVENTH SCHEDULE
(section 47)

Return of Recycling Fee
(to be submitted with payment)

Name of Employer

TAN No.

National Pensions Registration Number

Address of Employer

Total Amount of Recycling Fee

I certify that to the best of my knowledge the information in this return as correct.

.....
Signature and Name

.....
Position

Date:

Details of Employee

	ID No.	Name	Other Names	Salary Rs	Interval of Payment	Date of Entry	Date of Termination of Employment	Amount of Recycling Fee
1								
2								
3								
4								
5								
Total								

TENTH SCHEDULE

(section 69)

FIRST SCHEDULE

(section 5)

	Category of Employees	Contributions (rounded to the nearest rupee) calculated on the basic wage/salary	Contributions (rounded to the nearest rupee) calculated on the basic wage/salary
		BY EMPLOYER	BY EMPLOYEE
1.	Public Officers, employees of a local authority, employees of parastatal bodies	2.5%	-
2.	Any other employee	2.5%	1%

SECOND SCHEDULE

(section 5B, 5D)

Financing of Transition Unemployment Benefit

(1)	Where the amount made up of the 1% contributions, the recycling fee and interests accrued thereon in the National Savings Fund Account of the employee is not less than 50% of the Transition Unemployment Benefit.	From the 1% contributions, the recycling fee and interests accrued thereon in the National Savings Fund Account of the employee	From Workforce Programme Account
		50% of the monthly Transition Unemployment Benefit.	50% of the monthly Transition Unemployment Benefit
(2)	Where the amount specified at item 1 in the National Savings Fund Account of the employee is less than 50% of the monthly Transition Unemployment Benefit.	100% of the amount specified at item 1 in the account	100% of the Transition Unemployment Benefit less total amount specified at item 1 in National Savings Fund Account employee

THIRD SCHEDULE
(section 5C)

Transition Unemployment Benefit

Period after termination of Employment	Rate of Benefit per month
First 3 months	90 per cent of basic wage or salary but not less than Rs 3,000
From 4 th month to end of 6 th month	60 per cent of basic wage or salary but not less than Rs 3,000
From 7 th month to end of 12 th month	30 per cent of basic wage or salary but not less than Rs 3,000

2. Basic wage or salary means

- (i) One twelfth of the sum of the basic wage or salary drawn by the employee for the twelve consecutive months preceding the month in which entitlement arises.
- (ii) Where the worker has worked for less than 12 consecutive months immediately before the month of entitlement, the monthly basic wage or salary shall be the sum of the basic wage or salary drawn for each month he has worked during the twelve preceding months divided by the number of months.
- (iii) The amount payable in respect of any period of less than a month, shall be at the rate of one-thirtieth of the amount payable per month for any day in that period.