

Proclamation No: ____/
LABOUR PROCLAMATION

WHERE AS it is essential to ensure worker-employer relations are governed by basic principles of rights and obligations with a view to enabling workers and employers to secure durable industrial peace; sustainable productivity and competitiveness through cooperative engagement towards the all-round development of our country;

WHEREAS it has been found necessary to lay down a working system that guarantees the rights of workers and employers to freely establish their respective associations and to engage, through their duly authorized representatives, in social dialogue and collective bargaining, as well as to draw up procedures for the expeditious settlement of labour disputes, which arise between them;

WHEREAS there is a need to create favorable environment for investment and achievement of national economic goals without out scarifying fundamental workplace rights by laying down well considered labour administration; and determine the duties and responsibilities of governmental organs entrusted with the power to monitor labour conditions; occupational health and safety; and environmental protection together with bilateral and tripartite social dialogue mechanisms;

WHEREAS it has been found necessary to reformulate the existing labour law with a view to attaining the aforementioned objectives and in accordance with the political, economic and social policies of the Country and in conformity with the international conventions and other legal commitments to which Ethiopia is a party;

NOW, THEREFORE, in accordance with sub-article (1) and (3) of Article 55 of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE
GENERAL

1. Short Title

This Proclamation may be cited as the “Labour Proclamation No:__

2. Definitions

In this Proclamation unless the context provides otherwise:

- 1) “Employer” means a person or an undertaking who employs one or more natural persons in accordance with Article 4 of this Proclamation;

- 2) "Undertaking" means any entity established under a united management for the purpose of carrying on any commercial, industrial, agricultural, construction or any other lawful activity;

Any branch carrying on the activities of an undertaking which is designated separately and which enjoys operational or organizational autonomy shall be deemed to be a separate undertaking;

- 3) "Worker" means a person who has an employment relationship with an employer in accordance with Article 4 of this Proclamation;
- 4) "Ministry" or "Minister" means the Ministry or Minister of Labour and Social Affairs respectively;
- 5) "Appropriate authority" means, a Regional state organ vested with the power of implementing labour laws;
- 6) "Work rules" means internal rules which govern, subject to the provisions of this Proclamation and other relevant laws, working hours, rest period, payment of wages and methods of measuring work done, maintenance of safety and prevention of accidents, disciplinary measures and their enforcement as well as other conditions of work;
- 7) "Conditions of work" means the entire field of labour relations between workers and employers including hours of work, wage, leave, payments due to dismissal, workers health and safety, compensation to victims of employment injury, dismissal because of redundancy, grievance procedure and any other similar matters;
- 8) "Regional state" means any State referred to in Article 47 of the Constitution of Federal Democratic Republic of Ethiopia, and includes the Addis Ababa and Dire Dawa city administrations;
- 9) "Social dialogue" means a process of information exchange, dialogue or negotiation of bilateral or tripartite nature between employer and employees or involving the Government on economic and social issues of mutual interests towards arriving at common understanding;
- 10) "Managerial employee" means an employee who, by law or delegation of the employer, is vested with powers to lay down and execute management policies, and depending on the type of activities of the undertaking, with or without the aforementioned powers an employee who is vested with the power to hire, transfer, suspend, layoff, dismiss or assign employees, and includes a legal service head who recommends measures to be taken by the employer regarding such managerial issues, using his independent judgment, in the interest of the employer;
- 11) "Sexual harassment" means to persuade or convince another through utterances, signs or any other manner, to

- submit for sexual favor without his/her consent;
- 12) "Sexual violence" means sexual harassment accompanied by force or an attempt thereof;
- 13) "private employment agency" (herein after "Agency ") means any legally licensed person, to provide one or two of the following local Employment services without charging directly or indirectly any fee from the worker:
- a) Local employment exchange service without being a party to an employment relation; or
- b) Deploying of employees under its authority to the service of a service user enterprise, by entering into contract of employments with such employees; or combines both services;
- 14) "License" means a certificate to be issued by a competent organ certifying that the entity is qualified to engage in private employment exchange service;
- 15) "Discrimination" any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction, social origin, HIV/AIDS status, disability or others which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
- 16) "Domestic work" means a work performed in or for a household or households
- 17) "commercial traveler and Representatives" shall have the meaning prescribed under commercial code
- 18) "Person" means any natural or juridical person;
- 19) Provisions of this Proclamation set out in the masculine gender shall also apply to the feminine gender;

3. Scope of Application

- 1) Without prejudice to sub-article (2) of this Article, this Proclamation shall be applicable to employment relations based on a contract of employment that exist between a worker and an employer including recruitment process.
- 2) This Proclamation shall not, however, be applicable to the following employment relations:
- a) contracts for the purpose of upbringing, treatment, care or rehabilitation;
- b) contracts for the purpose of educating or training other than apprentice;
- c) where the employee is a managerial employee ;
- d) contracts of personal service ;

- e) contracts relating to persons such as members of the Armed Force, members of the Police Force, employees of state administration, judges of courts of law, prosecutors and others whose employment relationship is governed by special laws;
 - f) Contracts relating to a person who performs an act, for consideration, at his own business or professional responsibility.
- 3) Notwithstanding the provision of sub-article(1) of this Article:
- a) unless the Council of Ministers by regulations decides, or an international agreement to which Ethiopia is a signatory provides otherwise, employment relations between Ethiopian nationals and foreign diplomatic missions or international organizations operating within the territory of Ethiopia shall be governed by this Proclamation;
 - b) the Council of Ministers may, by Regulations, determine the inapplicability of this Proclamation to employment relations established by religious or charitable organizations;
 - c) the Council of Ministers shall issue Regulations governing conditions of work applicable to personal services

PART TWO

EMPLOYMENT RELATIONS

CHAPTER ONE

CONTRACT OF EMPLOYMENT

SECTION ONE

FORMATION OF CONTRACT OF EMPLOYMENT

4. **Element of a Contract of Employment**

- 1) A contract of employment shall be deemed formed where a natural person agrees directly or indirectly to perform work for and under the authority of an employer for a definite or indefinite period or piece of work in consideration for wage.
- 2) A contract of employment shall be stipulated clearly and in such manner that the parties are left with no uncertainty as to their respective rights and obligations under the terms thereof.
- 3) A contract of employment shall specify the type of employment and place of work, the rate of wages, method of calculation thereof, manner and interval of payment and duration of the contract.

- 4) A contract of employment shall not be concluded for the performance of unlawful or immoral acts.
- 5) The contract of employment shall not laydown less favorable conditions forth employee than those provided for by law, collective agreement or work rules.

5. **Form**

Unless otherwise provided by law, a contract of employment shall not be subject to any special form.

6. **Contract of Employment made in Writing**

Subject to the provisions of the relevant law, a written contract of employment shall specify the following:

- 1) The name and address of the employer;
- 2) The name, age, addresses and work card number, if any, of the worker;
- 3) the agreement of the contracting parties made in accordance with sub-article(3) of Article 4 of this Proclamation; and
- 4) The signature of the contracting parties.

7. **Contract of Employment not made in Writing**

- 1) Where a contract of employment is not made in writing, the employer shall, with in 15 days from the conclusion of the contract, give the worker a written and signed letter containing the elements specified under Article 6 of this Proclamation.
- 2) If the letter referred to in sub-article (1) of this Article is not wholly or partly objected by the worker within 15 days from the date of receipt, it shall be deemed a contract of employment concluded between the worker and the employer.

8. **Failure to Comply Condition**

Failure to comply with the requirements of the provisions of Article 6 or7of this

Proclamation shall not deprive the worker of his right sunder this Proclamation.

SECTION TWO

DURATION OF CONTRACT OF EMPLOYMENT

9. **Contract of Employment for an Indefinite Period**

Any contract of employment shall be deemed to have been concluded for an indefinite period except for those provided for under Article10 here under.

10. **Contract of Employment for Definite Period or Piecework**

- 1) A contract of employment may be concluded for a definite period or for piece work in the case of:
 - a) The performance of specified piece work for which the

- employee is employed;
- b) the replacement of a worker who is temporarily absent due to leave or sickness or other causes;
 - c) The performance of work in the event of abnormal pressure of work;
 - d) The performance of urgent work to prevent damage or disaster to life or property, to repair defects or breakdowns in works, materials, buildings or plants of an undertaking;
 - e) An irregular work which relates to permanent part of the work of an employer but performed on irregular intervals;
 - f) Seasonal works which relate to the permanent part of the works of an employer but performed only for a specified period of the year but which are regularly repeated in the course of the years;
 - g) An occasional work which does not form part of the permanent activity of the employer but which is done intermittently;
 - h) The temporary placement of a worker who has suddenly and permanently vacated from a post having a contract of an indefinite period;
 - i) The temporary placement of a worker to fill a vacant position in the period between the preparation of an organizational structure and its implementation.
- 2) A contract of employment under paragraphs (h) or (i) of sub-article (1) of this Article shall not exceed 45 working days and shall be done only once.

11. Probation Period

- 1) A worker may be employed for a probation period for the purpose of testing his suitability to a job position in which he is anticipated to hold.
- 2) A worker re-employed by the same employer for the same job shall not be subject to probation.
- 3) When the parties agree to have a probation period, the agreement shall be made in writing; in such a case, the probation period shall not exceed 60 working days beginning from the first date of employment.
- 4) Unless the law or work rules or collective agreement provides otherwise, the probationary worker shall have the same rights and obligations that a worker who has completed his probation period possesses.
- 5) If the worker, during his probation, proves to be unfit for the post, the employer can terminate the contract of employment without notice and without being obliged for severance payment or compensation.
- 6) A worker on probation may terminate his contract of

employment without notice as well.

- 7) If a worker continues to work after the expiry of the probation period, a contract of employment for the intended period or type of work shall be deemed to have been concluded from the beginning of the probation period.

SECTION THREE OBLIGATIONS OF THE PARTIES

12. Obligations of an Employer

An employer shall in addition to special stipulations in the contract of employment have the following obligations:

- 1) (a) to provide work to the worker in accordance with the contract of employment and,
(b) unless otherwise stipulated in the contract of employment, to provide the worker with implements and materials necessary for the performance of the work;
- 2) To pay the worker wages and other benefits in accordance with this Proclamation or the collective agreement;
- 3) To deduct union dues from the worker's regular wage, where the worker requests in writing of such deduction, and transfer the cash into the trade union's bank account;
- 4) To respect the worker's human dignity;
- 5) To take all the necessary occupational safety and health measures and to abide by the standards and directives to be given by the appropriate authorities in respect of these measures;
- 6) To cover the cost of medical examination of the worker whenever such medical examination is required by law or the appropriate authority;
- 7) To keep a register containing the relevant particulars specified in Article 6 hereof, weekly rest days, public holidays and utilized leave of the worker, health conditions of the employee except for HIV& AIDS, and employment injury record and other particulars required by the Ministry or appropriate authority ;
- 8) Up on termination of a contract of employment or whenever the worker so requests, to provide the worker, free of charge, with a certificate stating the type of work he performed, the length of service and the wage she was earning;
- 9) To observe the provisions of this Proclamation, collective agreement, work rules, directives and orders issued in accordance with law;
- 10) To record and keep in formation as required by this Proclamation, and any other information necessary for the appropriate organ to carry out its powers and duties, and submit same within a reasonable time when requested by

- the competent authority;
- 11) Under take registration of information on workplace location and work related data as per the form prepared by the Ministry; and
 - 12) Whenever an enterprise has a work rules it should arrange awareness raising program for the concerned workers.

13. Obligations of Workers

Every worker shall have the following obligations:

- 1) To personally perform the work specified in his contract of employment;
- 2) To follow instructions given by the employer based on the terms of the contract and work rules;
- 3) To handle with due care all equipment and tools entrusted to him for work;
- 4) To report for duty always in fit mental and physical conditions;
- 5) To give all proper aid when an accident occurs or an imminent danger threatens life or property in a workplace without endangering his safety and health;
- 6) To inform immediately the employer any act which endangers himself or co-workers or which prejudice the interests of the Undertaking;
- 7) To comply with the provisions of this Proclamation, collective agreement, work rules and directives issued in accordance with the law.

14. Prohibited Acts

- 1) It shall be unlawful for an employer where any of the following acts are committed by the employer or a managerial employee; to:
 - a) Restrain the worker in any manner from exercising his rights or take any retaliatory action against him because he exercises his right;
 - b) Discriminate against female workers, in matters of remuneration, on the ground of their sex orientation;
 - c) Terminate a contract of employment contrary to the provisions of this Proclamation;
 - d) Coerce or in any manner compel any worker to join or not to join a trade union; or to continue or cease membership of a trade union; or to require a worker to quit membership from one union and require him to join another union; or to require him to cast his vote to a certain candidate or not to a candidate in elections for trade union offices;
 - e) Compel any worker to execute any task which is hazardous to his life;
 - f) Discriminate between workers on the basis of ethnicity, sex, religion, political outlook, HIV& AIDS or disability or any

- other grounds;
 - g) Unduly delay a collective bargaining by withholding relevant information for the negotiation or perform any other act contrary to good faith;
 - h) Commit sexual harassment or sexual assault at workplace;
 - i) Physically abuse anyone in a work place;
 - j) Coerce a worker in any manner to work or discharge an obligation.
- 2) It shall be unlawful for a worker to:
- a) Intentionally commit in the workplace any act which endangers life or property;
 - b) Take away property from the work place without the express authorization of the employer;
 - c) Making use of falsified document or an attempt thereof;
 - d) Report for duty in a state of intoxication;
 - e) Except for HIVAIDS test, refuse to submit himself for medical examination when required by law or by the employer for good cause;
 - f) Refuse to observe safety and accident prevention rules and to take the necessary safety precautions;
 - g) Conduct meeting during working hours in disregard to the time assigned by the collective agreement or without obtaining the permission of the employer;
 - h) Commit sexual harassment or sexual violence at workplace;
 - i) Physically abuse anyone in a workplace.

SECTION FOUR

MODIFICATION OF CONTRACT OF EMPLOYMENT

15. Conditions of Modification

Conditions of a contract of employment which are not determined by this Proclamation may be modified by:

- 1) Collective agreement;
- 2) Work rules issued in accordance with this Proclamation; or
- 3) Written agreement of the parties.

16. Amalgamation, Division or Transfer of Ownership

Without prejudice to Article 15 of this Proclamation, amalgamation, division or transfer of ownership of an undertaking shall not have the effect of modifying a contract of employment.

SECTION FIVE
TEMPORARY SUSPENSION OF RIGHTS AND OBLIGATIONS
ARISING FROM CONTRACT OF EMPLOYMENT

17. General

- 1) Rights and obligations arising from a contract of employment may be temporarily suspended in the manner provided for by this Section.
- 2) Temporary suspension of rights and obligations arising from a contract of employment shall not imply termination or interruption of the contract; provided, however, that the contract of employment shall interrupt the obligation of:
 - a) The worker to perform the work;
 - b) The employer to pay wages, other benefits and allowances unless otherwise provided for by this Proclamation or by a collective agreement.

18. Grounds for Suspension

The following shall be valid grounds for the suspension in accordance with Article 17 of this proclamation:

- 1) Leave without pay granted by the employer upon request by the worker;
- 2) Leave of absence for the purpose of holding office in trade unions or other social services;
- 3) Detention for a period not exceeding 30 days; provided, however, that the employer is notified within 10 days or is supposed to know of the detention;
- 4) National call;
- 5) Full or partial suspension, due to force majeure, of the activities of the employer for a period of not less than 10 consecutive days;
- 6) Financial problems, not attributable to the fault of the employer, that requires the suspension of the activities of the employer for not less than 10 consecutive days.

19. Duty to Inform

In order to suspend rights and obligations arising from contract of employment are suspended in accordance with sub-article (5) or (6) of Article 18 above the employer shall inform the Ministry or the competent authority in writing within three working days of the occurrence of the ground for suspension.

20. Decisions of the Ministry or the Appropriate Authority

- 1) The Ministry or the Appropriate authority shall determine

the existence of a good cause for suspension within three working days upon receipt of the written notice pursuant to Article 19 above. Where the Ministry or the appropriate authority does not notify its decision within three days, the organization shall be deemed allowed to suspend.

- 2) Where the Ministry or the appropriate authority finds that there is no good cause for suspension it shall order the resumption of the work and payment for the days on which workers were suspended.
- 3) The party who is aggrieved by the decision in accordance with sub-articles (1) and (2) of this Article may, within five working days, appeal to the competent labour court.

21. Effect of Confirmation or Authorization of Suspension

- 1) Where the Ministry or the appropriate authority confirms or proves the existence of good causes for suspension, it shall fix the duration of the suspension; provided, however, that duration of the suspension shall not exceed 90 days.
- 2) Where the competent authority or the appropriate authority is convinced that the employer cannot resume its activities within the period set under sub-article (1) of this Article, the contract of employment shall be put to an end and worker shall be entitled to the benefits specified under Articles 39 and 44 of this Proclamation.

22. Effects of Expiry of the Period of Suspension

The worker shall report for work on the working day following the date of expiry of suspension; and the employer shall reinstate the worker, who so reports for work, in a relevant position to his profession without adversely affecting his job position and wage.

CHAPTER TWO

TERMINATION OF EMPLOYMENT RELATIONS

23. General

- 1) A contract of employment shall only be terminated upon initiation by the employer or worker and in accordance with the provisions of the law or a collective agreement or by the agreement of the parties.
- 2) The amalgamation, division or transfer of ownership of an undertaking shall not have the effect of terminating a contract of employment.

SECTION ONE

TERMINATION OF CONTRACT OF EMPLOYMENT BY THE OPERATIONS OF THE LAW OR BY AGREEMENT

24. Termination of contract of Employment by the Operations of the Law

A contract of employment shall terminate on the following grounds:

- 1) On the completion of the work where the contract of employment is for a specified work;
- 2) Up on the death of the worker;
- 3) Up on the retirement of the worker in accordance with the relevant law;
- 4) When the undertaking ceases operation permanently due to bankruptcy or for any other cause;
- 5) When the worker is unable to work due to partial or total permanent in capacity.

25. Termination of Contract of Employment by Agreement

- 1) The parties may terminate their contract of employment by agreement; provided, however, that waiver by the worker of any of his rights under the law shall have no legal effect.
- 2) Termination of employment by agreement shall be effective and binding on the worker only where it is made in writing.

SECTION TWO

**TERMINATION OF CONTRACT OF EMPLOYMENT
UPON THE INITIATION OF THE PARTIES**

SUB-SECTION ONE

**TERMINATION OF CONTRACT OF EMPLOYMENT BY
THE EMPLOYER**

26. General

- 1) A contract of employment may only be terminated where there are grounds attributed to the worker's conduct or with objective circumstances arising from his ability to do his work or the organizational or operational requirements of the undertaking.
- 2) The following shall not be deemed to constitute legitimate grounds for the termination of a contract of employment:
 - a) Membership of the worker in a trade union or his participation in its lawful activities;
 - b) Seeking or holding office as workers' representative;
 - c) Submission of grievance by the worker against the employer or his participation in judicial or other proceedings;
 - d) The worker's ethnic origin, sex, religion, political outlook, marital status, race, color, family responsibility, pregnancy or social status.

27. Termination of Contract of Employment without Prior Notice

- 1) Unless otherwise determined by a collective agreement, a contract of employment shall be terminated without prior notice only on the following grounds;

- a) Unless the reason for being late is justified by the collective agreement, work rule or contract of employment , being late for duty eight times in six months period while being warned in writing of such a problem;
 - b) Absence from duty for a total five days in six months period while being warned in writing of such a problem; and where the absence cannot be classified in any of the leaves provided under the Proclamation;
 - c) Deceitful or fraudulent conduct in carrying out his duties;
 - d) Misappropriation of the property or fund of the employer with intent to procure for himself or to a third person unlawful enrichment;
 - e) Performance result of a worker, despite his potential, is persistently below the qualities and quantities stipulated in the collective agreement or determined by the agreement of the parties;
 - f) Being responsible for brawls or quarrels at work, having regard to the gravity of the case;
 - g) Conviction for an offence where such conviction renders him incompatible for the post which he holds;
 - h) Being responsible for causing damage intentionally or through gross negligence to any property of the employer or to another property which is directly connected with the work of the Undertaking;
 - i) Commission of any of the prohibited acts under sub- article (2) of Article 14 of this Proclamation;
 - j) Absence from work due to a court sentence passed against the worker for more than 30 days;
 - k) Commission of other violations stipulated in a collective agreement as grounds for terminating contract of employment without notice.
- 2) Where an employer terminates a contract of employment in accordance with this Article, he shall give written statement specifying the reasons for and the date of termination.
 - 3) The right of an employer to terminate contract of employment in accordance with this Article, shall lapse after 30 working days from the date the employer knew the existence of a ground for the termination.
 - 4) The grounds for suspension of a worker from duty before terminating the contract of employment of the worker in accordance with this Article may be determined by collective agreement; provided, however, that the duration of such suspension shall not exceed 30 working days.

28. Termination of contract of Employment with Prior Notice

- 1) The following grounds relating to the loss of capacity of, and

situations affecting, the worker shall constitute good cause for terminating a contract of employment with prior notice:

- a) The worker's manifest loss of capacity to perform the work to which he has been assigned; and his lack of skill to continue his work as a result of his refusal or inability to make use of an opportunity of training arranged by the employer to upgrade his skill or after having been trained, his inability to acquire the necessary skill;
 - b) The worker is, for reasons of health or disability, permanently unable to carry out his obligations under the contract of employment;
 - c) The worker's unwillingness to move to a locality where the undertaking relocates;
 - d) The post of the worker is cancelled for good cause and the worker cannot be transferred to another job position.
- 2) Any loss of capacity of work referred to in paragraph (a) of sub-article(1) of this Article shall, unless otherwise provided by a collective agreement, be verified by a periodical job performance evaluation.
- 3) The following grounds attributable to the organizational or operational requirements of an undertaking shall constitute good causes for the termination of a contract of employment with prior notice:
- a) Any event which entails direct and permanent cessation of the worker's activities in part or in whole resulting in the necessity of a terminating a contract of employment;
 - b) Without prejudice to the provisions of sub-articles (5) and (6) of Article 18, demand fall for the products or services of the employer resulting in the reduction of the volume of the work or profit of the undertaking and thereby requiring termination of a contract of employment;
 - c) A decision to alter work methods or introduce new technology with a view to raise productivity resulting in termination of a contract of employment.
- 4) Where the cancellation of a job position affects a workforce in accordance with sub-article (1) of Article 29 of this Proclamation, the termination shall be undertaken in compliance with the requirements laid down in sub-article (3) of same Article.

29. Reduction of Workforce

- 1) In this Proclamation "reduction of workforce" means termination of workforce of an undertaking for any of the reasons provided for by sub- article (3) of Article 28 of this

Proclamation affecting a number of workers representing at least ten percent of the number of workers employed or, in the case where the number of workers employed in an undertaking is between twenty and fifty, termination of at least five employees over a continuous period of not less than ten days.

- 2) The expression “number of workers” referred to in sub-article (1) of this Article means the average number of the workers employed by an employer concerned within the twelve months preceding the date when the employer took measures of reduction of workers.
- 3) Whenever a reduction of workforce takes place in accordance with sub-article (3) of Article 28 of this Proclamation, the employer shall conduct consultation with a trade union or workers’ representatives in order to retain workers having skills and higher rate of productivity in their posts. In case of comparable skill and rate of productivity, the workers to be affected first by the reduction shall be in the following order:
 - a) Those having the shortest length of service in the Undertaking;
 - b) Those having fewer dependents;
 - c) Those not covered under (a) and (b) of this sub-article;
 - d) Those employees with disability;
 - e) Those who sustained employment injury in the Undertaking;
 - f) Workers’ representatives; and
 - g) Expectant mothers and mothers within four months post-natal.

30. Exceptions

- 1) The procedure laid down in this Proclamation shall not apply to the reduction of workers due to normal decrease in the volume of a construction work as a result of its successive completion unless the reduction affects workers employed for parts of the work before the work for which they are employed is completed.
- 2) For the purpose of sub-article (1) of this Article, “construction work” includes the construction, renovation, upgrading, maintenance and repair of a buildings, roads, rail-way lines, dams and bridges, installation of machinery and similar works.

SUB-SECTION TWO TERMINATION OF CONTRACT OF EMPLOYEMENT BY THE WORKER

31. Termination of Contract of Employment with Prior Notice

Without prejudice to Article 32 of this Proclamation, any worker who has completed his probation period may, by giving thirty days prior notice to the employer, terminate his contract of employment.

32. Termination of Contract of Employment without prior notice

- 1) The following shall be good causes to terminate a contract of employment without prior notice:
 - a) Where the employer has committed any act contrary to human dignity and morals or other acts punishable under the Criminal Law against the worker;
 - b) Where the workers has been a victim of sexual harassment or sexual violence by the employer or a managerial employee;
 - c) In the case of imminent danger threatening the worker's safety or health, where the employer, having been made aware of such danger, failed to act within the time limit in accordance with the early warning given by the competent authority or appropriate trade union or the worker himself to avert the danger;
 - d) Where the employer has repeatedly failed to fulfill his basic obligations towards the worker as prescribed under this Proclamation, collective agreement, work rules or other relevant laws.
- 2) Where a worker terminates his contract of employment for reasons referred to under sub-article (1) of this Article, he shall inform the employer in writing the reasons for termination and the date on which the termination is to take effect.

33. Period of Limitation

A worker's right to terminate his contract of employment in accordance with sub-article (1) of Article 32 of this Proclamation shall expire after fifteen working days from the date on which the act occurred or ceased to exist.

**CHAPTER THREE
COMMON PROVISIONS WITH RESPECT TO TERMINATION
OF CONTRACT OF EMPLOYMENT
SECTION ONE**

NOTICE TO TERMINATE A CONTRACT OF EMPLOYMENT

34. Procedure for Giving Notice

- 1) Notice of termination required under the provisions of this Proclamation shall be in writing. The notice shall specify the reasons for the termination of the contract and the date on which the termination shall take effect.
- 2) Notice of termination by the employer shall be delivered to the worker in person. Where it is not possible to find the worker or he refuses to receive the notice, it shall be affixed on the notice board in the work place of the worker for 10 consecutive days.
- 3) Notice of termination by the worker shall be handed over to the employer or its representative or delivered to its registry office.
- 4) Notice of termination issued to a worker by an employer during

the time in which the contract of employment is suspended as per Article 17 of this Proclamation shall be null and void.

35. Period of Notice

- 1) The period of notice given by the employer shall be as follows:
 - a) One month, in the case of a worker who has completed his probation and has a period of service not exceeding one year;
 - b) Two months, in the case of a worker who has a period of service above one year and not exceeding nine years;
 - c) Three months, in the case of a worker who has a period of service of more than nine years;
 - d) Two months, in the case of a worker who has completed his probation and whose contract of employment is to be terminated due to reduction of work force.
- 2) Notwithstanding the provisions of sub-article (1) of this Article, the period of notice for a contract of employment for a definite period or piece work shall be as agreed upon by the parties to the contract.
- 3) The period of notice fixed in this Proclamation shall run from the first working day following the date on which notice is duly given.
- 4) The obligations of the parties arising from the contract of employment shall remain intact during the period of notice.

SECTION TWO

**PAYMENT OF WAGES AND OTHER PAYMENTS ON
TERMINATION OF CONTRACT OF EMPLOYMENT**

36. Period of Payment

Where a contract of employment is terminated, wages and other payments connected with the termination due to the worker shall be paid within seven working days from the date of termination; provided, however, that the time of payment may be extended where the worker delays, because of his own fault, to return property or any sum of money which he received from or is due to the employer.

37. Amount in Dispute

In the event of a dispute as to the amount claimed by the worker, the employer shall pay the worker the admitted amount within the time limit specified under Article 36 of this Proclamation.

38. Effects of Delay

Where an employer fails to pay the sum due to the worker within the time limit specified under Article 36 of this Proclamation, the

labour division of a competent court may order a penalty payment of up to three months' the worker's wage except where the delay is due to causes beyond the control of the employer.

SECTION THREE SEVERANCE PAY AND COMPENSATION

39. General

- 1) A worker who has completed his probation period and who is not eligible for pension shall have the right to receive severance pay from the employer where:
 - a) His contract of employment is terminated because of permanent cessation of operation of the Undertaking due to bankruptcy or for any other cause;
 - b) His contract of employment is terminated by the initiation of the employer in violation of the law;
 - c) He is reduced as per the conditions prescribed under this Proclamation;
 - d) Where the worker resigned due to sexual harassment or sexual violence by the employer or managerial employee; or where such act was committed by a co-worker and the incident was reported to the employer but the latter failed to take appropriate measure in due time;
 - e) He has terminated his contract of employment because of the employer's maltreatment affecting his human dignity or morale or constituting a criminal offence under the Criminal Code;
 - f) He has resigned due to failure of the employer to take measures despite being informed of a threat to his safety and health;
 - g) His contract of employment is terminated because of his partial or total disability as certified by medical board;
 - h) Where he has given service to the employer for a minimum of five years' service and his contract of employment is terminated because of sickness or death or his contract of employment is terminated on his own initiative provided that he has no contractual obligation relating to training to render service to the employer;
 - i) His contract of employment is terminated on his own initiative because of HIV/AIDS.
- 2) Where a worker dies before receiving severance pay, it shall be paid to his dependents' referred to in Article 110(2) of this Proclamation.
- 3) The allocation of severance pay to dependents of the deceased

shall be effected in the same manner as in Article 110 of this Proclamation

40. Amount of Severance Pay

The severance pay referred to in Article 39 of this Proclamation shall:

- 1) Be thirty times the average daily wages of the last week of service for the first year of service; and for the service of less than one year, be calculated in proportion to the period of service;
- 2) In the case of a worker who has served for more than a year, payment shall be increased by one-third of the amount referred to in sub-article (1) of this Article for every additional year of service; provided, however, that the total amount shall not exceed twelve months' wage of the worker.
- 3) Where a contract of employment is terminated in accordance with Article 24(4) or 29 of this Proclamation, the worker shall be paid, in addition to payments under sub-article (1) or (2) of this Article, an amount equal to the worker's average daily wage of the last week of service multiplied by 60.

41. Compensation for Termination of Contract of Employment without Notice

- 1) A worker who terminates his contract of employment in accordance with Article 32(1) of this Proclamation shall be entitled, in addition to the severance pay referred to in Article 40 of this Proclamation, to a payment of compensation which shall be thirty times his daily wages of the last week of service. This provision shall apply to a worker covered by the relevant pension law.
- 2) However, where the termination is based on Article 32(1b), the worker shall, in addition to severance pay, be entitled to compensation of his daily wage multiplied by ninety. This provision shall also apply to a worker covered by the relevant pension law.

**SECTION FOUR
CONSEQUENCES OF UNLAWFUL TERMINATION OF
CONTRACT OF EMPLOYMENT**

42. General

Where an employer or a worker fails to comply with the requirements laid down in this Proclamation or other relevant law regarding termination of a contract of employment, the termination shall be unlawful.

43. Reinstatement or Compensation of a Worker in the Case of

unlawful termination

- 1) Where a contract of employment is terminated because of those grounds mentioned under sub-article (2) of Article 26 of this Proclamation, the employer shall be obliged to reinstate the worker; provided, however, that the worker shall be compensated if he wishes to quit his employment.
- 2) Without prejudice to sub-article (1) of this Article, where a contract of employment is terminated contrary to the provisions of Articles 24, 25, 27, 28 or 29 of this Proclamation, the labour dispute settlement tribunal may order the reinstatement of the worker or the payment of compensation.
- 3) Notwithstanding sub-article (2) of this Article, the labour tribunal may affirm the termination of the worker upon payment of compensation even if the worker requests for re-instatement where the tribunal is of the view that the maintenance of the particular worker and employer relations, by its nature or due to the controversy of the parties concerned, is likely to give rise to serious difficulties. Similarly, where a worker who, after obtaining judgment of reinstatement declines to be reinstated, the tribunal may order the termination of the worker upon payment of compensation for the inconvenience he sustained having regard to the nature of the work and other circumstances of the case.
- 4) The compensation to be paid under sub-article (1), (2) or (3) of this Article to a worker who is not reinstated shall, in addition to the severance pay referred to in Article 40 of this Proclamation, be:
 - a) In the case of a contract of employment for an indefinite period, one hundred eighty times the average daily wages and a sum equal to his wage for the appropriate notice period in accordance with Article 44 of this Proclamation;
 - b) In the case of a contract of employment for a definite period or for piecework, a sum equal to the wages which he would have obtained if the contract of employment has continued up to its date of expiry or completion of the work; provided, however, that such compensation shall not exceed one hundred eighty times his average daily wage. The provisions of sub-article (4) of this Article shall also be applicable to a worker covered by the relevant pension law.
- 5) Where the first instance court orders the reinstatement of the worker in accordance with sub-article (1) or (2) of this Article, the court shall order back-pay of wage for a period not exceeding 6 months. Where the decision of reinstatement is confirmed by the appellate court, it shall order back pay of wage for a period not exceeding one year.

44. Exceptions

Notwithstanding the provisions of Article 43, non-compliance by the employer with the notice requirements specified under Article 35 shall only result in the payment by the employer, wages in lieu of the notice period.

45. Liability of the Worker to Pay Compensation

- 1) A worker who terminates his contract of employment in disregard of the provisions of Article 31 or 35(2) of this Proclamation shall be liable to pay compensation to the employer.
- 2) However, the compensation payable by the worker in accordance with sub-article (1) of this Article shall not exceed 30 days' wages of the worker and be payable from the remaining payment due to the worker.

CHAPTER FOUR SPECIAL CONTRACTS SECTION ONE HOME WORK CONTRACT

46. Formation of Contract

- 1) There shall be a home work contract when a natural person habitually performs work, for an employer, in his own home or any other place freely chosen by him in return for wages without any direct supervision or direction by the employer.
- 2) In agreement for the sale of raw materials or tools by an employer to a home worker and there sale of the products to the employer or any other similar arrangements made between the employer and the home worker shall be deemed a home work contract.
- 3) The contract concluded between a home worker and an employer shall be deemed to be made for a definite period or piece-work.
- 4) The Minister may, in consultation with the concerned organs, prescribed by directives the provisions of this proclamation that shall apply to home workers and manner of their application.

47. Keeping of Records

An employer who employs a worker on the basis of a home work contract shall keep a register containing the following and other relevant particulars:

- 1) Full name, age, marital status and address of the worker;
- 2) The address where the work is to be carried out;
- 3) The type, price, quality and quantity of material supplied by the employer to the worker;
- 4) The type of work, quality and quantity ordered;
- 5) The time and place of delivery of the product or material;
- 6) Amount and manner of payment.

SECTION TWO

CONTRACT OF APPRENTICESHIP

48. Formation of Contract

- 1) There shall be a contract of apprenticeship where an employer agrees to give a person complete and systematic training in a given occupation related to the function of his undertaking in accordance with the skills of the trade and the person in return agrees to obey the instruction given to carry out the training and works related thereto.
- 2) The contract of apprenticeship shall be concluded with the person whose age is not less than fifteen years.
- 3) The contract of apprenticeship and its modifications shall be valid only where it is made in writing and approved by the Ministry or the appropriate organ.

49. Contents of the Contract

A contract of apprenticeship shall specify at least the following:

- 1) The nature and duration of the training of apprenticeship;
- 2) The stipend to be paid during the training;
- 3) The conditions of work.

50. Obligations of the Parties

- 1) The apprentice shall diligently follow the training and endeavor to complete it successfully.
- 2) The employer shall not assign the apprentice on an occupation which is not related and does not contribute to his training.

51. Termination of a Contract

- 1) A contract of apprenticeship shall terminate on the following grounds:
 - a) At the expiry of the period fixed for the apprenticeship;
 - b) Upon giving notice by either of the contracting parties;
 - c) When the apprentice terminates the contract without notice.
- 2) The employer may terminate the contract of apprenticeship by giving notice in accordance with sub-article 1(b) of this Article, where:
 - a) He is no longer able to discharge his obligations on account of change of work or other causes beyond his control; or
 - b) The apprentice violates the disciplinary rules of the undertaking; or
 - c) The apprentice is permanently incapable of continuing his training or completing his training within the specified time limit.
- 3) The apprentice may terminate the contract of apprenticeship by giving notice of termination in accordance with sub-article 1(b) of this Article, where:
 - a) The employer fails to observe his obligations under the

- contract or this Proclamation; or
- b) The apprentice has good cause relating to his health or family or other similar grounds.
- 4) The apprentice may terminate the contract of apprenticeship without giving notice in accordance with sub-article 1(c) of this Article, where:
 - a) He proves, by appropriate medical certificate, that he cannot discharge his obligations without seriously endangering his health; or
 - b) The employer unilaterally changes the terms of the contract.
- 5) The provisions of this Proclamation regarding severance pay, compensation and reinstatement shall not be applicable to contracts of apprenticeship.

52. Certificate

The employer shall, up on the termination of the contract of apprenticeship, give the apprentice a certificate which specifies the occupation he has been trained in, the duration of the training and other similar particulars.

PART THREE WAGES CHAPTER ONE DETERMINATION OF WAGES

53. General

- 1) "Wages" means the regular payment to which a worker is entitled in return for the performance of the work that he performs under a contract of employment.
- 2) For the purposes of this Proclamation, the following payments shall not be considered as wages:
 - a) Over-time pay;
 - b) Amount received by way of per-diems, hardship allowances, transport allowance, relocation expenses, and similar allowance payable to the worker on the occasion of travel or change of his residence;
 - c) Bonus;
 - d) Commission;
 - e) Other incentives paid for additional work results;
 - f) Service charge received from customers.

54. Conditions of Payments for Idle Time

- 1) Unless otherwise provided for in this Proclamation or the relevant law, wages shall be paid only for work performed.
- 2) Not with standing sub-article (1) of this Article, a worker shall

be entitled to payment of his wage if, while being ready to work, he is unable to work due to an interruption in the supply of tools or raw materials or due to other causes not attributable to him.

CHAPTER TWO

MODE AND EXECUTION OF PAYMENT

55. General

- 1) Wages shall be paid in cash, provided, however, that where the employer and workers agree, it may be paid in kind. Wages paid in kind may not exceed the market value in the area of the payment in kind and in no case may exceed 30% of the wages paid in cash.
- 2) A Regulation of the Council of Ministers shall determine the powers and responsibilities of a Wage Board which shall comprise representatives of the Government, employees and trade unions together with other stakeholders that will periodically revise minimum wages based on studies which take into account the country's economic development, labour market and other considerations.

56. Execution of Payments

- 1) Unless agreed otherwise, wages shall be paid on working days and at the place of work.
- 2) In case where the day of payment mentioned in sub-article (1) of this Article falls on weekly rest day or a public holiday, the day of payment shall fall on the preceding working day.

57. Payment in Person

Unless otherwise provided by law or collective agreement or work rules, wages shall be paid directly to the worker or to a person authorized by him.

58. Time of Payment

Wages shall be paid at such intervals as a provided for by law or collective agreement or work rules or contract of employment.

59. Deduction from Wages

- 1) The employer shall not deduct from, attach or set off the wages of the worker except where it is provided otherwise by law or collective agreement or work rules or in accordance with a court order or a written agreement of the worker concerned.
- 2) Unless the worker expresses his consent in writing, the amount that may be deducted at any one time, from the worker's wage shall in no case exceed one-third of his monthly wage.

60. Keeping Record of Payment

- 1) The employer shall keep a register of payment specifying the gross pay and method of calculation of the wage, other remunerations, the amount and type of deduction, the net pay and other relevant particulars on which the signature of the worker is a fixed unless there is a special arrangement.
- 2) The employer shall have the obligation to make the register accessible and to explain the entries thereof, to the worker upon the latter's request.
- 3) The fact that a worker has received without protest the amount indicated on the register shall not constitute waiver of his right to any part of his wages that was due.

PART FOUR

HOURS OF WORK, WEEKLY REST AND PUBLIC HOLIDAYS

CHAPTER ONE HOURS OF WORK

SECTION ONE

NORMAL HOURS OF WORK

61. Maximum Daily or weekly Hours of Work

- 1) In this proclamation, "normal hours of work" means the time during which a worker actually performs work or avails himself for work in accordance with law, collective agreement or work rules.
- 2) Normal hours of work shall not exceed eight hours a day or forty-eight hours a week.

62. Reduction of Normal Hours of Work

- 1) The Ministry may issue directives reducing normal hours of work for economic sectors, industries or occupations where there are special conditions of work.
- 2) Reductions of normal hours of work under this proclamation shall not entail reduction in the wages of a worker.

63. Arrangement of Weekly Hours of Work

Hours of work shall spread equally over the working days of a week, provided, however, where the nature of the work so requires, hours of work in any one of the working days may be shortened and the difference be distributed over the remaining days of the week without extending the daily limits of eight hours by more than two hours.

64. Averaging of Normal Hours of Work

Where the circumstances in which the work has to be carried out are such that normal hours of work cannot be distributed evenly over the individual week, normal hours of work may be calculated as an average over a period longer than one week, provided, however

that the average number of hours over a period shall not exceed eight hours per day or fortyeight hours per week.

65. Exclusion

Unless otherwise provided in a collective agreement or employment contract, the provisions of this Proclamation governing working hours shall not be applicable to commercial travelers or commercial representatives.

**SECTION TWO
OVERTIME WORK**

66. General

- 1) Work done in excess of the normal daily hours of work fixed in accordance with the provisions of this Proclamation shall be deemed to be overtime.
- 2) Work done within the limits referred to in Articles 61, 63 and 64 of this Proclamation shall not be deemed to be overtime.
- 3) Overtime shall be worked only in cases expressly provided for under Article 67 and on the express instructions of the employer.
- 4) The instructions given under sub-article (3) of this Article and the actual overtime worked by each worker shall be recorded by the employer.

67. Circumstances in which Overtime Work is Permissible

- 1) A worker may not be compelled to work overtime, however, overtime may be worked whenever the employer cannot be expected to resort to other measures and only where there is:
 - a) Accident, actual or eminent;
 - b) Force-majeure;
 - c) Urgent work;
 - d) Substitution of absent workers assigned on work that runs continuously without interruption.
- 2) Notwithstanding the provisions of sub-article (1c) of this Article, overtime work shall not exceed four hours in a day and twelve hours in a week.

68. Overtime Payment

- 1) In addition to his normal wage, a worker who works over-time shall be entitled at least on the following rate of payments:
 - a) In the case of work done between 6:00 a.m. in the morning and 10:00 p.m. in the evening, at the rate of 1 1/2 multiplied by the ordinary hourly rate;
 - b) In the case of night time work between 10 p.m. in the evening and 6 a.m. in the morning, at the rate of 1 3/4 multiplied by the ordinary hourly rate;
 - c) In the case of work done on weekly rest day, at the rate of 2

- multiplied by the ordinary hourly rate;
- d) In the case of work done on a public holiday, at the rate of 2.5 multiplied by the ordinary hourly rate.
- 2) Payment for over-time work shall be effected on the day fixed for payment of wage and together with wage.

CHAPTER TWO: WEEKLY REST

69. General

- 1) A worker shall be entitled to a weekly rest period covering not less than twenty-four non-interrupted hours in the course of each period of seven days.
- 2) Unless otherwise determined by a collective agreement or work rule, the weekly rest day shall, whenever possible:
 - a) Fall on a Sunday;
 - b) Be granted simultaneously to all of the workers of the undertaking.
- 3) The weekly rest period shall be calculated as to include the period from 6 a.m. to the next 6 a.m.
- 4) Notwithstanding the provisions of sub-article(1) of this Article, where the nature of his task did not enable the worker to make use of his weekly rest day, the employer shall grant 4 working days of rest in a month.

70. Special Weekly Rest Day

- 1) Where the nature of the work or the service provided by the employer is such that the weekly rest cannot fall on Sunday, another day may be made a weekly rest instead.
- 2) The provisions of sub-article (1) of this Article shall be applicable to the following and other similar activities:
 - a) Work that has to supply the necessities of life to meet the health, recreational or cultural requirements of the general public;
 - b) Essential public services as stipulated under Article 137(2) of this Proclamation.
 - c) Work which, because of its nature or for technical reasons, if interrupted or postponed could cause difficulties or damages.

71. Works Done on Weekly Rest Days

- 1) A worker may be required to work on any weekly rest day only where it is necessary to avoid serious interference with the ordinary working of the under taking in the case of:
 - a) Accident, actual or threatened;
 - b) Force majeure;
 - c) Urgent work to be done.
- 2) Without prejudice to the provisions of sub-article 1(c) of Article 68 of this Proclamation, a worker who, by virtue of the

provisions of this Chapter, works on a weekly rest day, shall be entitled to a compensatory rest period. However, he shall be compensated in the form of cash if his contract of employment is terminated before he utilized the compensatory rest period.

72. Application

The provision of this chapter shall not apply to commercial travelers or commercial representatives.

CHAPTER THREE

PUBLIC HOLIDAYS

73. General

Public holidays observed under the relevant law shall be paid public holidays.

74. Non-Reduction of Wages for Public Holidays

- 1) A worker who is paid on a monthly basis shall incur no reduction of his wages on account of having not worked on a public holiday.
- 2) The payment of wages on a public holiday to a worker other than workers mentioned under sub-article (1) of this Article shall be determined by his contract of employment or collective agreement.

75. Payment for Working on Public Holidays

- 1) A worker shall be paid his hourly wages multiplied by two for each hour of work on a public holiday.
- 2) Where a public holiday coincides with another public holiday or falls on a rest day designated by law, a worker shall be entitled to only one public holiday payment for working on such a day.

PART FIVE

LEAVE

CHAPTER ONE

ANNUAL LEAVE

76. General

- 1) An agreement by a worker to waive in any manner his right to annual leave shall be null and void.
- 2) Unless otherwise provided in this Proclamation, it is prohibited to pay wages in lieu of the annual leave.

77. Amount of Annual Leave

- 1) A worker shall be entitled to uninterrupted annual leave with pay. Such leave shall in no case be less than:
 - (a) Sixteen (16) working days for the first year of service;
 - (b) Sixteen (16) working days plus one working day for

every additional two years' service.

- 2) . The wage a worker receives during his annual leave shall be equal to what he would have received if he had continued to work.
- 3) For purpose of determining the qualifying period of service required for the entitlement of an annual leave, 26 days of service in an undertaking shall be deemed to be equivalent to one month of employment.
- 4) A worker whose contract of employment is terminated pursuant to this Proclamation shall be entitled to his pay for the leave he has not taken.
- 5) Where the length of service of a worker is below one year, the worker shall be entitled to an annual leave proportional to the length of his service.

78. Granting of Leave

- 1) A worker shall be granted his first annual leave after one year of service and his next and sub sequent annual leave in the course of each calendar year.
- 2) An employer shall grant a worker his leave in accordance with a leave schedule in the course of the calendar year in which it becomes due.
- 3) The leave schedule referred to in sub-article (2) of this Article shall be drowned up by the employer with due regard as far as possible to
 - a) the interest of the worker; and
 - b) the need for maintaining the normal operation of the undertaking

79. Dividing and Postponing Annual Leave

- 1) Notwithstanding the provisions of Article 77(1) of this Proclamation, if a worker requests and the employer agrees, his leave may be granted in two parts.
- 2) Annual leave may be postponed when the worker requests and the employer agrees.
- 3) An employer may, for reasons dictated by operational requirements of the undertaking, postpone the leave of a worker.
- 4) Any leave postponed in accordance with sub-articles (2) and (3) of this Article shall not be postponed for more than two years.
- 5) Where a worker on annual leave falls sick and required medical treatment as inpatient, his annual leave shall be suspended and his sick leave pursuant to Articles 85 and 86 of this Proclamation shall commence.

80. Recalling of Worker on Leave

- 1) A worker on annual leave may be recalled only where unforeseen circumstances required his presence at his job duties.

- 2) A worker who is recalled from leave shall be entitled to a payment covering the remainder of his leave excluding the time lost for the trip.
- 3) The employer shall cover the transport expenses and per-diem incurred by the worker as a direct consequence of his being recalled.

CHAPTER TWO SPECIAL LEAVES

81. Leave for family events

- 1) A worker shall be entitled to leave with pay for three working days where;
 - a) He concludes marriage; or
 - b) His spouse, descendants, ascendants, brother, sister, uncle, aunt whether by consanguinity or affinity dies.
- 2) A male employee shall be entitled to three consecutive days paternity leave with full pay
- 3) A worker shall be entitled to leave without pay for up to five consecutive days in the case of exceptional and serious events. However, such leave may be granted only twice in a budget year.

82. Union Leave

Trade union leaders shall be entitled to leave with pay for the purpose of presenting cases in labour disputes, negotiating collective agreements, attending union meetings, participating in seminars or training courses. The manner of granting such leave may be determined by collective agreement.

83. Leave for special purpose

- 1) A workers who appears at hearings before bodies competent to hear labour disputes or to enforce labour laws shall be granted leave with pay only for the time utilized for the said purpose.
- 2) A worker shall be granted leave with pay for the purpose of exercising his voting rights or discharging his obligation as a witness before judicial or quasi-judicial organs.
- 3) The manner in which educational or training leave is to be granted and the form and extent of the financial assistance to be provided may be determined in a collective agreement or work rules.

84. Notification

A worker wishing to take leave in accordance with the provisions of this Chapter shall notify the employer in advance and present the necessary supporting evidence whenever the employer requests him.

CHAPTER THREE

SICK LEAVE

85. Duration of leave

- 1) Where a worker, after having completed his probation, is rendered incapable of working due to sickness other than employment injury, he shall be entitled to a sick leave.
- 2) The leave referred to in sub-article (1) of this Article shall, in no case, be more than six months counted consecutively or separately in the course of any twelve months' period starting from the first day of his sickness.
- 3) Where a worker absents himself from work due to sickness, he shall, except where the employer is in a position to be aware of the sickness or it is impractical, notify the employer on the day following his absence.
- 4) Without prejudice to stipulations in collective agreement or work rules, a worker shall be entitled to sick leave up on presenting a valid medical certificate issued by a duly recognized medical facility.

86. Payment

The period of sick leave provided for in Article 85 shall be granted to a worker in the following manner:

- 1) For the first one month, with payment of 100% of his wages;
- 2) For the next two months, with payment of 50% of his wage;
- 3) For the next three months, without pay.

PART SIX

WORKING CONDITIONS OF WOMEN AND YOUNG WORKERS

CHAPTER ONE

WORKING CONDITIONS OF WOMEN

87. General

- 1) Women shall not be discriminated against in all respects on the basis of their sex.
- 2) Without prejudice to the generality of sub-article (1) of this Article, priority shall be given to women if they get equal result with men when competing for employment, promotion or any other benefit.
- 3) It is prohibited to assign women on works that may be listed by the Ministry to be particularly dangerous to women or hazardous to their health.
- 4) No pregnant woman shall be assigned to night work between 10 p.m. and 6 a.m. or be assigned on overtime work.
- 5) She shall be transferred to another place of work if her job is hazardous to her health or to the fetus as ascertained by

- a physician.
- 6) An employer shall not terminate the contract of employment of women during her pregnancy and until four months after her confinement.
 - 7) Notwithstanding the provisions of sub-article (6) of this Article, contract of employment may be terminated for reasons stipulated under Article 27 (b-k) and Article 29 (3).

88. Maternity Leave

- 1) An employer shall grant leave to a pregnant worker with pay, for medical examination connected with her pregnancy, provided, however, that she may be required to present a medical certificate of her examination.
- 2) A pregnant worker shall, upon the recommendation of a physician, be entitled to a leave with pay.
- 3) A pregnant worker shall be granted a period of 30 working days of leave with pay of pre-natal leave and a period of 60 working days of leave post- natal.
- 4) Where a pregnant worker does not deliver within the 30 working days of her pre-natal leave, she is entitled to an additional leave until her confinement in accordance with sub-article (2) of this Article. However, if birth takes place before the expiry of the pre-natal leave, the 60 working days of post-natal leave shall commence.

CHAPTER TWO WORKING CONDITIONS OF YOUNG WORKERS

89. General

- 1) For the purpose of this Proclamation, "young worker" means a natural person who has attained the age of 15 but is below the age of 18 years.
- 2) It is prohibited to employ a person less than 15 years of age.
- 3) It is prohibited to assign young workers on work, which on account of its nature or due to the condition in which it is carried out endangers their lives or health.
- 4) The Ministry may prescribe the list of activities prohibited for young workers which shall include in particular:
 - a) Work in the transport of passengers and goods by road, railway, air and internal water ways, dock sides and ware houses involving heavy weight lifting, pulling or pushing or any other related type of labour;
 - b) Work connected with electric power generation plants, transformers or transmission lines;
 - c) Underground work such as mines and quarries;
 - d) Work in sewers and tunnel excavation.

- 5) The provision sub-article (4) of this Article shall not apply to work performed by young workers in fulfillment of course requirements in vocational schools that are approved and inspected by the competent authority.

90. Limits of Hours of Work

Normal hours of work for young workers shall not exceed seven hours a day.

91. Night and Overtime Work

It is prohibited to assign young workers on:

- 1) Night work between 10 p.m. and 6 a.m.;
- 2) Over time work;
- 3) Work done on weekly rest days; or
- 4) Work done on public holidays

**PART SEVEN
OCCUPATIONAL SAFETY AND HEALTH AND
WORKING ENVIRONMENT
CHAPTER ONE
PREVENTIVE MEASURES**

92. Obligations of an Employer

An employer shall take the necessary measure to safeguard adequately the health and safety of workers; it shall in particular:

- 1) Comply with the occupational health and safety requirements provided for in this Proclamation;
- 2) Take appropriate steps to ensure that workers are properly instructed and notified concerning the hazards of their respective occupations; and assign safety officer; and establish an occupational health and safety committee;
- 3) Provide workers with protective equipment, clothing and other materials and instruct them of their use;
- 4) Register employment accidents and occupational diseases and report same to the labour inspection service;
- 5) Arrange, according to the nature of the work, at his own expense for the medical examination of newly employed workers and for those workers engaged in hazardous work, as may be necessary with the exception of HIV/AIDS Unless and otherwise the country has obligation of international treaty to do so.
- 6) ensure that the work place and premises of the undertaking do not pose threats to the health and safety of workers;
- 7) Take appropriate precautions to ensure that all the processes of work in the undertaking shall not be a source or cause of physical, chemical, biological, ergonomic and psychological hazards to the health and safety of the workers;
- 8) implement the instructions given by the competent authority in accordance with this Proclamation;

93. Obligations of Worker

Any worker shall:

- 1) Co-operate in the formulation of work rules to safeguard the workers' health and safety, and implement same;
- 2) Inform forthwith to the employer any defect related to the appliances used and incidents of injury to health and safety of workers that he is aware of in the undertaking;
- 3) Report to the employer any situation which he may have reason to believe could present a hazard and which he cannot prevent on his own, and any incident of injury to health which arises in the course of or in connection with work;
- 4) Make proper use of all safety devices and other appliances furnished for the protection of his health and safety or for the protection of the health and safety of others;
- 5) Observe all health and safety instructions issued by the employer or by the competent authority.

94. Prohibited Acts

Now worker shall:

- 1) Interfere with, remove, displace, damage or destroy any safety devices or other appliances furnished for his protection or the protection of others; or
- 2) Obstruct any method or process adopted with a view to minimizing occupational hazard.

CHAPTER TWO

OCCUPATIONAL INJURIES

SECTION ONE LIABILITY

95. General

- 1) For the purpose of this Proclamation, "occupational injury" means an employment accident or occupational disease.
- 2) Subject to the provisions of the relevant pension law, the provisions of this Chapter shall apply where an employment injury is sustained by a worker during or in connection with the performance of his work.

96. Liability Irrespective of Fault

- 1) The employer shall be liable, irrespective of fault, for employment injuries sustained by his worker and such liability shall be determined in accordance with, the provisions of this Chapter.

- 2) The employer shall not be liable for any injury intentionally caused by the worker upon himself. In particular, any injury resulting from the following acts shall be deemed to be intentionally caused by the worker:
 - a) Non-observance of express safety instructions given by the employer or the provisions of accident prevention rules; or
 - b) Reporting to work in a state of intoxication caused by taking alcoholic beverage or drug that prevents him from properly regulating his body or understanding.
- 3) The provisions of sub-article (1) of this Article shall not affect the right of a worker to claim damages in accordance with the relevant law where an occupational injury is a result of fault on the part of the employer.

97. Occupational Accident

For the purpose of this Proclamation “occupational accident” means any organic injury or functional disorder sustained by a worker as a result of any cause extraneous to the injured worker or any effort he makes during or in connection with the performance of his work and includes:

- 1) Any injury sustained by a worker while carrying out his employer's order, even away from the work place or outside his normal hours of work;
- 2) Any injury sustained by a worker before or after his work or during any interruption of work provided that he is present in the workplace or the premises of the undertaking by reason of his duties;
- 3) Any injury sustained by a worker while he is travelling to or from a place of work in a transport service provided by the undertaking which is available for the common use of its workers or in a vehicle hired and expressly destined by the undertaking for the same purpose;
- 4) Any injury sustained by a worker as a result of an action of the employer or a third party during the performance of his work.

98. Occupational Disease

- 1) For the purpose of this Proclamation an “occupational disease” means any pathological condition whether caused by physical, chemical or biological agents which arise as consequence of:
 - a) The type of work performed by the worker; or
 - b) The surroundings in which the worker is obliged to work during a certain period prior to the date when the diseases become evident.

- 2) Occupational disease shall not include endemic or epidemic diseases which are prevalent and being contracted in the area where the work is done, except in the case of workers exclusively engaged in combating such diseases by reason of their occupation.
- 3) The Ministry shall, in consultation with the concerned authority, issue directives which contain schedules listing diseases to be of occupational origin. The said schedule shall be revised at least every five years.
- 4) The occurrence of any of the diseases listed in the relevant schedule to any worker having been engaged in anyone of the corresponding types of work specified therein, shall by itself, constitute sufficient proof of the occupational nature of the disease.
- 5) Notwithstanding sub-article (4) of this Article, any proof shall be admitted to establish the occupational origin of a disease not listed in the relevant schedule and of diseases listed when they manifest themselves under conditions different from those establishing a presumption of their occupational nature.
- 6) In the absence of proof to the contrary, any disease which occurs frequently only to persons employed in certain occupations shall be presumed to be of an occupational origin where the worker suffering from such a disease was engaged in such occupation and the existence of the disease is ascertained by a medical practitioner.
- 7) The date on which an occupational disease became evident, which is. the first date on which the worker became incapacitated or the date of the first medical diagnosis of the disease or the date of the injured worker's death, shall be considered as the date on which an occupational disease contracted.
- 8) Where a worker after being cured from an occupational disease listed in the relevant schedule, re-contracts the disease as a result of his being engaged in anyone of the corresponding work specified in the said list, it shall be presumed that he has contracted afresh occupational disease.

SECTION TWO

DEGREE OF DISABLEMENT

99. Genera

- 1) "Disablement" means any employment injury as a consequence of which there is a decrease or loss of capacity to work.
- 2) Disablement shall have the following effects:
 - a) Temporary disablement;
 - b) Permanent partial disablement;
 - c) permanent total disablement; and
 - d) Death.

100. Temporary Disablement

Temporary disablement results from the reduction, for a limited period of time, of the worker's capacity for work partially or totally.

101. Permanent Partial or Total Disablement

- 1) "Permanent partial disablement" means incurable employment injury decreasing the injured worker's capacity.
- 2) "Permanent total disablement" means incurable employment injury which prevents the injured worker from engaging in any kind of gainful work.
- 3) Injuries which, although not resulting in incapacity for work, cause serious mutilation or disfigurement of the injured person shall, for the purpose of compensation and other benefits, be considered as permanent partial disablement.

102. Assessment of Disablement

- 1) The degree of permanent total or partial disablement shall be fixed in accordance with the assessment table of disablement prescribed by directives issued by the Ministry.
- 2) The degree of disablement shall be assessed by a medical board in accordance with the assessment table provided for in sub article (1) of this Article. The Board shall, as far as it is possible, determine the extent of the degree of disablement within twelve months from the date of injury.
- 3) Assessment of disablement may be reviewed in accordance with sub- articles (1) and (2) of this Article where the worker's condition deteriorates or improves or is wrongly diagnosed:
 - a) On the initiation of the relevant authority; or
 - b) At the request of the worker or employer concerned.
- 4) Where the result of the review so warrants, the rights of the worker to a disablement benefit shall be recognized or withdrawn or that the rate payable shall be increased or reduced, as the case may be.
- 5) Where a worker who has suffered an employment injury sustains additional employment injury, his disablement shall be reassessed in light of his new circumstances.

**CHAPTER THREE
BENEFITS IN THE CASE OF EMPLOYMENT INJURIES
SECTION ONE
GENERAL**

103. Payment of Benefits

Injury benefits shall be paid in accordance with the provisions of this Chapter.

104. Special Obligation

- 1) An employer shall have to discharge the following obligations:
 - a) To provide the injured with first aid in time;

- b) To take the injured by an appropriate means of transport to the nearest medical facility;
- c) To notify the occurrence of occupational injury to the relevant organ;
- 2) The employer shall have the obligation to cover the funeral expenses specified under sub-article 1(b) of Article 110 of this Proclamation.

SECTION TWO MEDICAL SERVICES

105. Types of medical services

Where a worker sustains employment injury, the employer shall cover the following expenses.

- 1) General and specialized medical and surgical care;
- 2) Hospital and pharmaceutical care;
- 3) Any necessary prosthetic or orthopedic appliances.

106. Duration of medical services

Medical services shall be withdrawn in accordance with the decision of a Medical Board

SECTION THREE VARIOUS KINDS OF CASH BENEFITS

107. General

- 1) A work who has sustained employment injury shall be titled to:
 - a) Periodical payment while he is temporarily disabled;
 - b) Disablement pension or gratuity or compensation where he sustains permanent disablement;
 - c) Dependents' pension or gratuity or compensation to his dependent where he dies.
- 2) Periodical payment may be withheld where a worker who has claimed or is receiving same:
 - a) Refuses or ignores to submit himself to medical examination or in any way intentionally obstructs or unnecessarily delays such examination;
 - b) he behaves in a manner calculated to delay his recovery; or
 - c) Violates the directives issued by the competent appropriate organ for the behavior of injured workers.
- 3) As soon as the circumstances that occasioned the suspension ceases, the periodical payment shall recommence; provided, however, that there shall be no entitlement to back pay for the

period of suspension.

108. Periodical Payment

- 1) The employer shall pay the periodical payment referred to in sub-article of 1(a) of Article 107 of this Proclamation for a period not exceeding one year.
- 2) The periodical payments referred to in sub-article (1) of this Article shall be at the rate of full wage of the worker's previous average yearly wages during the first three months following the date of injury, not less than 75% of the worker previous average yearly wages during the next three months and not less than 50% of his previous average yearly wages for the remaining six months.
- 3) Periodical payments shall cease whichever of the following takes place first:
 - a) When the worker is medically certified to be no longer disabled;
 - b) On the day the worker becomes entitled to disablement pension or gratuity;
 - c) Twelve months from the date the worker ceased to work

109. Disablement Payments

- 1) Unless otherwise provided by a collective agreement, disablement benefits payable to workers of an undertaking shall be in accordance with the applicable pension scheme or insurance scheme. Where the undertaking doesn't arrange an insurance scheme, the relevant pension scheme shall be applied...
- 2) Notwithstanding the provisions of sub-article (1) of this Article, the disablement benefit covered by an insurance scheme shall in no case be less than the amount prescribed under sub-article (4) of this Article.
- 3) An employer shall pay a lump sum of disablement benefit to workers who are not covered by pension law.
- 4) The amount of the disablement benefit to be paid by the employer shall be:
 - a) where the injury sustained by the worker is permanent total disablement, a sum equal to five times his annual wages;
 - b) where the injury sustained by the worker is below permanent total disablement a sum proportionate to the degree of disablement shall be calculated on the basis of the compensation provided for by paragraph (a) of this sub-article.
- 5) Where a worker who has sustained permanent disablement was at the date of the injury an apprentice, his disablement benefit shall be calculated by reference to the wages which he

would probably have been receiving as a qualified worker after the completion of his apprenticeship.

110. Dependents' Benefits

- 1) Where a worker or an apprentice dies as a result of an employment injury, the following benefits shall be payable:
 - a) Dependents' compensation in accordance with the provisions of sub-articles (2) and (3) of this Article; and
 - b) Unless the amount stipulated by the provisions of a collective agreement or work rules is higher, payment for funeral expenses shall be in no case less than two month wages of the worker.
- 2) The following shall be considered as dependents:
 - a) The widow or widower;
 - b) Children of the deceased who are under eighteen years of age; and
 - c) Any parent who was being supported by the deceased.
- 3) The amount of the dependents' benefit for workers not covered by the pension scheme, shall be a sum equal to five times the annual salary of the deceased and shall be paid by the employer in lump sum in accordance with the following proportion:
 - a) 50% for the widow or widower;
 - b) 10% each for the deceased's children who are below the age of eighteen years old;
 - c) 10% each for the deceased's parents who were being supported by him.
- 4) If the total of dependents' benefit calculated in accordance with sub-article (3) of this Article is in excess of 100% of the total amount to be apportioned, the amount of compensation for each dependent shall, without affecting the share of the widow or widower, be proportionately reduced to 100%. If the total amount of dependents' compensation is less than 100% of the total amount to be apportioned, the amount of compensation of each dependent shall be proportionately increased to make it 100%.

111. Burden of Proof

The benefits referred to in Article 110 of this Proclamation shall not be payable where the worker dies after twelve months from the date of the injury unless it is proved that the injury was the main cause of his death.

112. Benefits not Taxable

- 1) The benefits payable in accordance with the provision of this Section shall be exempted from income tax.
- 2) The benefits payable under the provisions of this Section shall not be assigned, attached or deducted by way of setoff.

**PART EIGHT
COLLECTIVE RELATIONS
CHAPTER ONE**

TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

113. The Right to Form Organizations

- 1) Workers and employers shall have the right to establish and organize trade unions or employers' associations, respectively, and actively participate there in;
- 2) In this Proclamation:
 - a) "trade union" means an association formed by workers;
 - b) "employers association" means an association established by employers;
 - c) "Federation" means an organization established by more than one trade unions or employers' associations.
 - d) "Confederation" means an organization established by more than one trade union federations or employer's federations.

114. Formation of Organizations

- 1) A trade union may be established in an undertaking where the number of workers is ten or more; provided, however, that the number of members of the union shall not be less than ten.
- 2) workers who work in different undertakings but in similar activities which have less than ten workers may form a general trade union, provided, however, that the number of the members of the union shall not be less than ten.
- 3) Trade unions may jointly form federation and federations may jointly form confederations as well.
- 4) Employers' associations may jointly form employers' federation and employer's federations may jointly form employers' confederation as well.
- 5) No trade union or employers' association may form a confederation without forming federations.
- 6) Any federation or confederation of trade unions or employers' associations may join international organizations of trade unions or employers.
- 7) No worker may belong to more than one trade union at any given time for the same employment. Where this provision is not observed, the latest membership shall prevail; and where the formalities of membership were simultaneous, all of them shall be without effect.
- 8) Notwithstanding sub-article (4) of this Article, any employer may join an established employers' federation.

115. Functions of Organizations

Organizations shall have the following functions:

- 1) to observe the conditions of work and fulfill the obligations set forth in this Proclamation; protect the rights and interests

of their members, in particular, represent members in collective bargaining and labour disputes before the competent organ when so requested or authorized by their members; provided, however, that:

- a) where there exist more than one trade unions at a given undertaking, the trade union which will be the exclusive bargaining agent and undertake consultation with authorities, is the one which secures 50% +1 membership of all employees of the undertaking;
 - b) the organization which secured the majority membership of the workers shall be recognized by the Ministry or the appropriate authority;
 - c) if an organization subsequently failed to secure the majority membership of workers, the other organization that secure majority shall be recognized instead;
- 2) to ensure that laws, regulations, directives and declarations are known to and be complied with and implemented by members;
 - 3) to initiate laws and regulations pertaining to labour relations and to participate actively during their formulation and amendments;
 - 4) to discharge other tasks provided for in the bylaws of their respective organizations.

116. Functions of Federations and Confederations

In addition to those matters mentioned under Article 115 of this Proclamation, federations and confederations shall have the following functions:

- 1) To strengthen the unity and spirit of co-operation among their member unions;
- 2) To participate in the determination or improvement of the conditions of work at the trade or sectorial level;
- 3) To encourage members to enhance their participation in the development of the country's economy;
- 4) To represent their members in any forums;
- 5) To discharge other tasks as assigned to them in their bylaws.

117. Prohibited Act

It shall be unlawful to an employers' or workers' organization to unduly delay collective bargaining contrary to good faith.

118. Constitution of Organizations

Trade unions and employers' organizations shall freely formulate their own constitutions. The constitutions may include, among other things, the following:

- 1) Name of the organization;
- 2) Address of the Head Office of the Organization;
- 3) Objective of the organization;

- 4) Date of establishment of the Organization;
- 5) Emblem of the Organization;
- 6) Requirements for assumption of leadership positions;
- 7) Union due so fits members;
- 8) Financial and property administration of the Organization;
- 9) Meeting and election procedures;
- 10) Disciplinary procedures;
- 11) The conditions for dissolution the organization; and
- 12) Status of the property in case of the dissolution of the organization.

119. Registration of Organizations

- 1) Every organization shall be registered by the Ministry or the appropriate authority in accordance with this Proclamation.
- 2) Every organization shall, upon application for registration, submit to the Ministry or the appropriate authority the following documents:
 - a) Constitution of the organization;
 - b) Document containing the names, address and signatures of its leadership;
 - c) In the case of a general union, the names of undertakings where members are working;
 - d) Where the organization is a federation or a confederation, the names, address and signatures of their leaderships and the member trade unions or employers' associations;
 - e) Name and emblem of the organization;
- 3) The Ministry or the appropriate authority shall, after examining the documents and ascertaining that they are duly completed, issue a certificate of registration within fifteen working days of receiving the application. Where the Ministry or the appropriate organ does not notify its decision within the prescribed period, the organization shall be deemed registered. In such cases, a certificate of registration shall be issued to the Organization.
- 4) An organization which is not registered in accordance with the provisions of this Article may not perform functions set forth in this Proclamation.
- 5) The first registration of a trade union shall be exempt from stamp duty.
- 6) A trade union or employers association registered by the Ministry or competent authority in accordance with this Proclamation shall have legal personality and have the capacity to undertake, in particular, the following:
 - a) To enter into contract;
 - b) To sue and be sued;

- c) To own, use and transfer property;
- d) To represent members at any level; and
- e) To undertake any lawful act necessary for the attainment of its objectives.

120. Refusal to Register

The Ministry or the appropriate authority may refuse to register an organization due to any one of the following grounds:

- 1) Where the organization does not fulfill the requirements laid down in this Proclamation, regulation and directives issued in accordance with this Proclamation;
- 2) Where the objectives and the constitution of the organization are illegal;
- 3) Where the name of the organization is similar with another organization established prior to it or so closely similar as to confuse its members and the general public in any manner; or
- 4) Where one or more of its elected leaders have been restricted from certain civil rights by court and the organization is not willing to replace them.

121. Cancellation of Registration

1) The Ministry or the appropriate authority may file before the competent court to cancel the certificate of registration of an organization, on any one of the following grounds:

- a) Where the certificate of registration was obtained by fraud or mistake or deceit;
- b) Where any of the objectives or the constitution of the organization is found to be illegal under this Proclamation and the organization is not willing to strike out the illegal provisions or conditions; or
- c) Where the organization is found to have engaged in activities which are prohibited under this Proclamation or performed acts which are contrary to its objectives and constitution; and it is not willing to cease or correct or eliminate them.

3) The Ministry or the appropriate authority may, upon request by an organization, ensure that the organization is dissolved in such manner as it thinks appropriate.

122. Notice to Cancel Registration of Organization

1) The Ministry or the appropriate authority shall, before filing for the cancellation of the registration of an organization in accordance with sub-article (1) of Article 121 of this Proclamation, give to the concerned organization one month prior notice specifying the grounds for the cancellation in order to provide it an opportunity to contend. The Ministry or the appropriate authority may not rely on any ground other than those enumerated in sub-article (1) of Article 121 of this Proclamation.

- 2) Where the period of notice provided for in sub-article (1) of this Article has expired and the organization does not oppose the notice or the reply is unacceptable by the Ministry or competent authority, it may file to the competent court for the cancellation of registration.
- 3) Without prejudice to sub-article (2) of this Article, the Ministry or the appropriate authority may in the meantime suspend the organization from engaging in acts prohibited by this Proclamation or contrary to its objectives and constitution as provided for under sub-article 1(c) of Article 121 of this Proclamation.

123. Appeal

Where the Ministry or the appropriate authority refuses registration of the organization, the organization may appeal to the competent court within 15 working days from the date of receipt of the decision in writing. The Ministry or the appropriate authority shall be given the opportunity to defend its decision before the court.

124. Consequence of Cancellation of Registration

An organization shall be deemed dissolved as of the date of cancellation of its registration by the decision of a court or dissolution by the Ministry or the appropriate authority up on request by the Organization.

**CHAPETER TWO
COLLECTIVE AGREEMENT
SECTION ONE
GENERAL**

125. Definition

- 1) "Collective agreement" means an agreement on conditions of work concluded in writing between representatives of one or more trade unions and one or more employers or representatives or agents of employers organizations.
- 2) "Collective bargaining" means a negotiation process between employers and workers organizations or their representatives concerning conditions of work in order to reach at collective agreement or the renewal or modifications thereof.

126. Collective Bargaining

- 1) Any trade union shall have the right to bargain with one or more employers or their organization in matters provided for in Article 129 of this Proclamation.
- 2) Employer or employers' associations shall have the right to bargain with their workers organized in a trade union.

127. Representation

- 1) The following shall have the right to represent workers in collective bargaining:
 - a) Where there is a trade union, the leaders of the trade union or members who are authorized in accordance the constitution of the union to negotiate and sign collective agreement;
 - b) Where there is a general trade union, the leaders of the general trade union who are authorized in accordance with the constitution of the union to negotiate and sign collective agreement.
- 2) Persons delegated by the concerned employer or employers or employers' organization shall have the right to represent them in collective bargaining.

128. Advisors

Any party to a collective bargaining may be assisted by advisors who provide expert advice during the negotiation process.

129. Subject Matter of a Collective Agreement

Matters concerning employment relations and conditions of work as well as relations of employers and their organizations with trade unions may be determined by a collective agreement.

130. Contents of the Collective Agreement

Without prejudice to the generality of Article 129 of this Proclamation, the following may, among other things, be determined by collective agreement:

- 1) Matters specified by the provisions of this Proclamation or other laws to be regulated by collective agreement;
- 2) the conditions for maintenance of occupational safety and health and the manner of improving social services;
- 3) workers' participation, particularly, in matters pertaining to promotion, wages, transfer, reduction and discipline;
- 4) conditions of work, on work rules and grievance procedures;
- 5) apportionment of working hours and interval break times;
- 6) parties covered by the collective agreement and its duration of validity;
- 7) On the establishment and working system of bipartite social dialogue.
- 8) On the establishment of daycare.

131. Procedure for Collective Bargaining

- 1) A party desiring to initiate a collective bargaining may request the other party in writing. It shall also prepare and submit draft proposal necessary for the negotiation.
- 2) The requested party shall within 10 working days of receiving the request, appear for collective bargaining.
- 3) The parties shall before commencing collective bargaining draw

- up the rules of procedure for bargaining.
- 4) Each party shall have the duty to bargain in good faith.
 - 5) Issues on which the parties could not reach agreement by negotiations in good faith may be submitted to the competent labour tribunal.
 - 6) Parties to a collective agreement shall commence renegotiation, at least three months before its period of expiry, to amend or replace it. However if the renegotiation is not finalized within three months subsequent to the date of its expiry, the provisions of the collective agreement pertaining to wages and other benefits, unless their validity is extended by a written agreement of the negotiating parties, shall cease to be operative.

132. Registration of Collective Agreement

- 1) Upon signing a collective agreement, the parties shall send sufficient copies of same to the Ministry or the appropriate authority for registration.
- 2) Unless there exists a valid reason to deny registration, the Ministry or the appropriate authority shall register the collective agreement within 15 working days from the date of receipt of copies thereof.

133. Accession

A collective agreement which has already been signed and registered by third parties may be acceded to by other negotiating parties.

SECTION TWO

CONDITIONS OF VALIDITY OF COLLECTIVE AGREEMENT

134. Duration of Validity of Collective Agreement

- 1) Any provision of a collective agreement which provides for conditions of work and benefits which are less favorable than those provided for under this Proclamation or other laws shall have no effect.
- 2) Unless otherwise provided there in, a collective agreement shall produce legal effect as of the date of signing by the parties.
- 3) Unless expressly stipulated otherwise in a collective agreements, no party may challenge the collective agreement within three years from the date of its validity; provided, however, that:
 - a) Up on the occurrence of a major economic change, a challenge to the collective agreement may be initiated to the Ministry or the appropriate authority by either party before the expiry of the fixed time;
 - b) The Ministry or the appropriate authority shall, up on receipt of a challenge to a collective agreement in accordance with paragraph (a) of this sub-article, assign a

conciliator with a view to enabling the parties settle the issue by agreement. If the parties fail to settle the issue amicably, Article 144 of this Proclamation shall apply.

- c) the parties may at any time change or modify their collective agreement; provided, however, that without prejudice to the special conditions set forth in paragraphs (a) and (b) of this sub-article, a party may not be obliged to bargain a collective agreement to change or modify it before its date of validity expires.

SECTION THREE

SCOPE OF APPLICATION OF A COLLECTIVE AGREEMENT

135. Scope of Application

- 1) The provisions of a collective agreement shall be applicable to all parties covered by it.
- 2) Where the collective agreement is more favorable to the workers in similar matters than those provided for by law, the provision of the collective agreement shall prevail. However, where the law is more favorable to the workers than the collective agreement, the law shall be given effect.

136. Exception

- 1) Where a trade union which is a party to a collective agreement is dissolved, the collective agreement shall remain valid between the employer and the workers.
- 2) In the case of amalgamation of two or more undertakings, unless provided otherwise by the parties:
 - a) Where each of the undertakings had the irrelative collective agreement, the collective agreement concluded by the undertaking which had more workers shall be applicable to the amalgamated undertaking;
 - b) Where each of the undertakings had their respective collective agreement and the numbers of their workers were equal, the collective agreement which, in general, is more favorable to the workers shall be applicable to the amalgamated undertaking ;
 - c) Where only one of the undertakings had a collective agreement, it shall be applicable to the amalgamated undertaking.
- 3) Where an undertaking is acquired by another or is divided, the provisions of sub-article (2) of this Article shall, as the case may be, be applicable.

PART NINE LABOUR DISPUTE CHAPTER ONE GENERAL

137. Definitions

In this Proclamation:

- 1) "Conciliation" means the activity conducted by a person or persons appointed by the parties or appointed by the competent authority at the request of the parties for the purpose of bringing the parties together and seeking an amicable resolution of a labour dispute which their own efforts alone could not resolve;
- 2) "Essential public service undertakings" means those services which shall be rendered without interruption to the general public and are the following undertakings:
 - a) air transport services;
 - b) electric power supply;
 - c) water supply and city cleaning and sanitation services;
 - d) urban light rail transport service
 - e) hospitals, clinics, dispensaries and pharmacies;
 - f) fire brigade services; and
 - g) telecommunication services;
- 3) "Labour dispute" means any disagreement between a worker and an employer or trade union and employers' association in respect of the application of law, collective agreement, work rules, employment contract and also any disagreement arising during collective bargaining or in connection with collective agreement;
- 4) "Lock-out" means an industrial measure applied by employer through the closing of the place of work with a view to persuading workers to accept certain labour conditions in connection with a labour dispute or to influence the outcome of the dispute;
- 5) "Strike" means the slow-down of work by any number of workers in reducing their normal out-put on their normal rate of work or the temporary cessation of work by any number of workers acting in concert in order to persuade their employer to accept certain labour conditions in connection with a labour dispute or to influence the outcome of the dispute.

CHAPTER TWO LABOUR COURTS

138. Establishment of Labour Divisions

- 1) Labour divisions shall be established, at Federal and Regional level as may be necessary.
- 2) The Ministry or the appropriate authority shall submit proposals for the decision of the appropriate authority on the number of labour divisions to be established in accordance with

sub-article (1) of this Article.

139. Labour Division First Instance Court

- 1) The labour division of a Federal and Regional first instance court shall have jurisdiction to settle and determine the following and other similar individual labour disputes;
 - a) disciplinary measures including dismissal;
 - b) claims related to the termination of employment contracts;
 - c) claims related to hours of work, remuneration, leaves and rest day;
 - d) claims related to the issuance of certificate of service and clearance
 - e) claims pertaining to employment injury, transfer, promotion, training and other similar issues;
 - f) Unless otherwise provided in this Proclamation, suits pertaining to violations provisions of this Proclamation.
- 2) The labour division of a Regional first instance court shall render its decisions within 60 days from the date on which the suit is filed.
- 3) The party who is aggrieved with the decision of the first instance court may, within 30 days from the date on which the decision was delivered, lodge an appeal to the labour division of the Federal or Regional appellate court.

140. The Labour Division of Appellate Court

- 1) The labour division of Appellate Court shall have jurisdiction to hear and decide on the following matters:
 - a) appeals submitted from the labour division of the first instance courts in accordance with Article 139 of this Proclamation;
 - b) objections on question of jurisdiction;
 - c) appeals submitted against the refusal of the registration of an organization by the Minister or Appropriate authority in accordance with Article 123 of this Proclamation;
 - d) appeals submitted by an employer who is affected by the order of labour inspector in accordance with Article 180(1) of this Proclamation;
 - e) appeals submitted against the decision of the Minister or Appropriate authority in accordance with sub-article (3) of Article 20 of this Proclamation;
 - f) Request submitted by Minister or Appropriate authority for the cancellation of the registration of an organization in accordance with sub-article (2) of Article 122 of this Proclamation.

- g) Appeals against the decision of the board on question of law in accordance with article 155 of this proclamation
- 2) The decision of the appellate court on appeal submitted under sub-article (1) of this Article shall be final.
- 3) The labour division of the Federal or Regional Appellate Court shall render its decision within 60 days from the date of the appeal lodged in accordance to sub-article (1) of this Article.

CHAPTER THREE ALTERNATIVE DISPUTE SETTLEMENT MECHANISM PERTAINING TO LABOUR ISSUES

141. Social Dialogue

Employers and workers or their respective associations may introduce social dialogue in order to prevent and resolve labour disputes amicably.

142. Assignment of Conciliator

- 1) When a dispute in respect of matters specified under Article 143 is brought to the attention of the Ministry or the appropriate Authority by either of the parties to the dispute it shall assign a conciliator with a view to amicable settlement of the case.
- 2) The Ministry or the Appropriate Authority may assign conciliators at the federal, regional and, when necessary, at the woreda levels.

143. Duties and Responsibilities of Conciliator

- 1) A conciliator appointed by the Ministry or the Appropriate Authority shall endeavor to bring about a negotiated settlement on the following and other similar collective labour disputes:
 - a) issues of wages and other benefits which are not determined by work rules or collective agreements;
 - b) establishment of new conditions of work;
 - c) the conclusion, amendment, duration and invalidation of collective agreements;
 - d) the interpretation of any provisions of this Proclamation, collective agreements or work rules;
 - e) procedure of employment and promotion of workers;
 - f) issues affecting workers in general and the very existence of the Undertaking;
 - g) suits related to procedures issued by the employer regarding promotion, transfer and training;
 - h) Issues pertaining to reduction of workers.
- 2) A conciliator shall endeavor to bring about an amicable settlement by all means as he considers appropriate.

- 3) When a conciliator fails to settle a labour dispute within 30 days, he shall report same to the competent authority together with his opinion, and shall serve copies of the report to the parties involved. Any one of the parties may submit the matter, other than those indicated under paragraph (a) of this of sub-article (1) of this Article to a Labour Relations Board. However, where the dispute under paragraph (a) of this sub-article (1) of this Article is related to those undertakings stipulated under Article 137(2) of this Proclamation, one of the parties may submit the case to an Adhoc Labour Relations Board.

144. Conciliation and Arbitration

- 1) Notwithstanding the provisions of Article 142 of this Proclamation, parties to a dispute may agree to submit their case to arbitrators or conciliators, of their own choice for settlement in accordance with the appropriate law.
- 2) If the parties fail to reach an agreement on the case submitted to conciliation under sub-article (1) of this Article or the party aggrieved by the decision of the arbitration may take the case to the Board or to the appropriate court, as the case may be.

CHAPTER FOUR

THE LABOUR RELATIONS BOARD

145. Establishment of the Board

- 1) One or more Permanent Labour Relations Boards (hereinafter referred to as “Permanent Board”) may be established in each Regional State, as may be necessary. However, Permanent Labour Relations Boards shall be established to entertain cases involving undertakings owned by the Federal Government which are situated in Addis Ababa and Dire Dawa city administration.
- 2) Ad hoc Labour Relations Board (hereinafter referred to as “ad hoc board”) may be established to hear and decide disputes that may arise on matters specified in sub-article 1(a) of Article 143 and in undertakings referred to in Article 137(2) of this Proclamation. Similarly, Adhoc Boards shall be established wherever necessary to entertain cases involving undertakings owned by the Federal Government situated in Addis Ababa and Dire Dawa city administration.
- 3) Every Permanent or Ad hoc Board shall be established under the Ministry or Appropriate Authority.
- 4) Notwithstanding sub-article (3) of this Article as per sub article (1) and (2) of this article ad hoc and permanent

boards assigned to hear and decide disputes in respect of matters involving undertakings owned by the Federal Government located in Addis Ababa and Dire Dawa city administration shall be established and be accountable to the Ministry.

146. Composition of Permanent or Ad Hoc Board

- 1) A Permanent or Adhoc Board shall comprises of a chair person, two members who have the knowledge and skill on labour matters, appointed by the Ministry or Appropriate Authority, four members out of which two represent trade unions and two represent employers' associations, and two alternate members one from each association. .
- 2) Employers representatives shall be nominated from the most representative of employers' associations and workers representatives shall be appointed from the most representative of trade unions.
- 3) The Ministry or the Appropriate Authority shall assign a secretary and such other necessary staff to the Board.
- 4) Members and alternate members of a board shall serve on part time basis without remuneration; provided, however, that the Ministry or the appropriate Authority shall fix standard fees for attendances at meetings of the board.
- 5) Members and alternate members of the board shall be appointed for a term of three years; provided, however, that in making the initial appointments, the terms of one, two and three years, respectively, shall be specified so that in each subsequent year the terms of not more than one-third of the members and alternate members then serving shall expire in anyone calendar year.
- 6) The Ministry or the Appropriate Authority shall dismiss a member in case of neglect of duty or malpractice in office; and shall arrange for the appointment of a substitute for the remaining term.

147. Meeting Procedures of Permanent and Ad Hoc Boards

- 1) In the absence of the Chairperson another member of the board designated by him as acting Chairperson, shall preside over the meetings of the board. Where no such member is designated, the member of the board who is senior in terms of his service shall act as a Chairperson.
- 2) In the absence of a member at any meeting of the board, the Chairperson may designate an alternate member to replace the absentee at such meeting. Alternate member so designated shall be deemed a member for the meeting for which he is designated.
- 3) Four members of the Board shall constitute a quorum at any meeting; provided, however, that a minimum of one member representing the workers side and another member representing

the employers' side shall be present.

- 4) Decision of the board shall be taken by a majority vote of the members present. In case of a tie, the Chairperson shall have a casting vote.
- 5) Each decision of the Board shall be signed by all members present.
- 6) Minutes of meetings after approval by the board shall be certified by the secretary and shall thereafter constitute the official record of the said meetings.

148. Powers of Permanent and Ad Hoc Boards

- 1) A Permanent Board shall have the following powers:
 - a) to entertain collective labour disputes except those in sub-article (1) (a) of Article 143; conciliate the parties; issue orders and render decisions;
 - b) to entertain and decide cases submitted to it by one of the disputing parties after the parties fail to reach an agreement in accordance with sub-article(3) of Article 143 of this Proclamation except on matters specified in sub-article (1) (a) Article 143 of this Proclamation;
 - c) to hear cases on prohibited actions referred to in Article 161 of this Proclamation;
 - d) to require any person or organization to submit information and documents required by it for the carrying out of its duties;
 - e) to require parties and witnesses to appear at its hearings;
 - f) to administer oaths or take affirmations of persons appearing before it and examine any such persons after such an oath or affirmation;
 - g) to enter the premises of any working place or undertaking during working hours in order to obtain relevant information, hear witnesses or to require the submission of documents or other articles for inspection from any person in the premises.
- 2) An Ad hoc Board shall have the power to entertain labour disputes on matters specified in sub-article 1 (a) of Article 143 of this Proclamation, to conciliate the parties and to give orders and decisions;
- 3) Except in cases of urgency the person in charge of the premises or the undertaking shall be given reasonable advance notice before any entry in accordance with sub-article 1(g) of this Article.
- 4) Orders and decisions handed down by a permanent or Ad hoc Board shall be considered as any civil case decisions.

149. Rules of Procedure

A Permanent or an Ad hoc board may adopt its own rules of evidence and procedure. In the absence of own procedure, the provisions of the Civil Procedure Code shall apply.

150. Hearings of cases

- 1) Before disposing the case, a Permanent or An ad hoc Board shall summon the parties concerned and provide them the opportunity to be heard. At least ten working days advance notice shall be given to the parties and the summons shall specify the date, time and place of the hearing.
- 2) If any of the parties or any other person properly summoned fails to appear at the time and place, the Board may proceed with the hearing. If the failure to appear was not attributable to the person concerned, the Board shall grant that person another opportunity to appear before it.
- 3) No appeal may be lodged solely against the Board's ruling in accordance with sub-article (2) of this Article.
- 4) All deliberations of the Board shall be public unless the Board, for good cause, decides otherwise.
- 5) A Permanent or an Ad hoc board shall not be bound by the rules of evidence and procedure applicable to courts of law and may apply any method as it thinks fit.
- 6) Trade unions, employers' associations and other parties summoned to appear at a hearing may be represented by their duly authorized representatives or legal counsel. The Board may limit the number of such representatives who may actively participate in a hearing on behalf of any party.

151. Consideration of Matters

- 1) The permanent or the ad hoc board shall exert all possible effort to settle the disputes before it amicably, and to this end it shall employ and make use of all conciliatory means as it deems appropriate.
- 2) The Board may, in appropriate circumstances, consider not only the interests of the parties before it but also the interest of the community of which they belong and may in such circumstances call up on the Government to intervene as an impartial advisor.
- 3) In arriving at decision, the Board shall take into account the main merit of the case, and need not follow strictly the principles of substantive law followed by civil courts.

152. Decisions

- 1) A Permanent or An ad hoc Board shall give render within 30 days from the date when the claim is filed.
- 2) Decisions of a permanent or an ad hoc board shall be made in writing and signed by the Board members who concur therein. Dissenting opinions, if any, shall also be made in writing and signed by the dissenting member.
- 3) In every decision of a Board the decision shall contain the following:
 - a) The issue or dispute identified for decision;

- b) The relevant testimony and evidence recorded together with their sources in the course of the proceedings;
 - c) The findings of the Board and the evaluation of the evidence which led the Board to make such findings;
 - d) The disposition of each issue or dispute;
 - e) The action to be taken on the basis of such decision.
- 4) A copy of the decision of the Board shall be served to the parties concerned within five days from the date of the decision.

153. Effects of Decisions

- 1) Without prejudice to Article 155 of this Proclamation, any decision of a permanent or an ad hoc board shall have an immediate effect.
- 2) Where the decision of a permanent or an ad hoc board relates to working conditions, it shall be considered as the terms of the contract of employment between the employer and the worker, to whom it applies, and the contract shall be adjusted accordingly.

154. Finality of Board's Findings of Fact

All findings of facts made by a Board shall be final and conclusive.

155. Appeal

- 1) In any labour dispute an appeal may be taken to the High Court by an aggrieved party on questions of law, within 30 days after the decision has been served to the parties.
- 2) The High Court shall have the power to affirm, reverse or modify the decision of the Board.
- 3) The High Court shall render its decision within 30 days from the date on which the appeal is submitted to it.

156. Offences against Permanent or Ad Hoc Board

- 1) Whosoever in the course of a board inquiry, proceeding or hearing in any manner disturbs deliberations shall be punishable with simple imprisonment not exceeding six months or with fine not exceeding Birr 1000.
- 2) Where the offence described in sub-article (1) of this Article is not committed openly or out of court session, the punishment, except in more serious cases, shall be a fine not exceeding Birr 500.
- 3) Proceedings of the Board shall be considered "quasi-judicial proceedings" and the board "a competent judicial tribunal" for the purpose of Article 449 of the Criminal Code, and violations thereof shall be punishable as provided there under.
- 4) The Board may punish any person who committed any offence described in this Article.

157. Annual Report

A Permanent or an Adhoc board shall have the responsibility to

submit to the Ministry or competent authority annual report of its activities.

CHAPTER FIVE

STRIKE AND LOCK-OUT

158. General

- 1) Workers shall have the right to strike to protect their interests in the manner prescribed in this Proclamation.
- 2) Employers shall have the right to lock-out in the manner prescribed in this Proclamation.
- 3) The provisions of sub-articles (1) and (2) of this Article shall not apply to workers and employers of undertakings referred to in Article 137(2) of this Proclamation.

159. Conditions to be Fulfilled

Prior to initiating a strike or lock-out partially or wholly the following steps shall be taken:

- 1) The party initiating a strike or lock-out shall give advance notice to the other party indicating its reasons for taking the said action;
- 2) Both parties shall make every effort to solve and settle their labour dispute in a mutually amicably manner;
- 3) The strike to be taken by the workers shall have to be supported by simple majority of the workers concerned in a meeting in which at least two-third of the members of the trade union were present.
- 4) Measures shall be taken to ensure the observance, by employers and workers, of safety regulations and accident prevention procedures in the undertaking.

160. Procedure for Notice

- 1) The notice under Article 159(1) of this Proclamation shall be given by the party initiating a strike or lock-out to the other party, and to the Ministry or the appropriate Authority.
- 2) The notice specified in sub-article (1) of this Article shall be served 10 days in advance of taking action.

161. Prohibited Acts

- 1) Without prejudice to the provision of sub-article(1) of Article 160 of this Proclamation, a strike or lock-out shall be unlawful if initiated after a dispute has been referred to a board or to a court and 30 days have not elapsed before any order or decision is given by the Board or the prescribed period has elapsed before the court has given decision.
- 2) It shall be unlawful to resist or unduly delay the execution of an order or a decision of a board or court disposing, in whole or in

part, a labour dispute or to take or continue to strike or to lock-out in protest to such order or decision of the board or court; provided, however, that the strike or lock-out shall not be unlawful if initiated in order to ensure compliance with such order or decision.

- 3) It is prohibited to conduct strike or lock-out accompanied by violence, threats of physical force or with any act which is illegal.

CHAPTER SIX FEES

162. Exemption from Fees

- 1) No service fees shall be levied in respect of cases submitted to conciliation and to a Labour Relations Board by any worker or trade union, employer or employers' associations in accordance with Articles 142 and 148 of this Proclamation.
- 2) No court fees shall be levied in respect of labour cases submitted to courts by any worker or trade union.

PART TEN PERIOD OF LIMITATION AND PRIORITY OF CLAIMS CHAPTER ONE PERIOD OF LIMITATION

163. Limitation

- 1) Unless a specific time limit is provided in this Proclamation or other relevant laws, an action arising from an employment relationship shall be barred after one year from the date on which the right becomes exercisable.
- 2) Any claim by a worker to be reinstated shall be barred after three months from the date of termination of the contract of employment.
- 3) Claim by a worker for payment of wage, over time or any other payment shall be barred after six months from the date it becomes due.
- 4) Any claim by a worker or employer for any payment arising from termination of employment contract shall be barred unless an action is brought within six months from the date of termination of the contract of employment.
- 5) The relevant law shall be applicable to the period of limitation which is not covered under this Proclamation.

164. Calculation of Period of Limitation

- 1) Unless otherwise specifically provided for in this Proclamation, the period of limitation shall begin to run from the date following the date when the right may be exercised.

- 2) Whenever the last date of a period of limitation falls on a non-working, it shall expire on the following working day.

165. Interruption of a Period of Limitation

A Period of limitation shall be interrupted by:

- 1) Any action taken before an authority responsible for the determination of labour disputes until a final decision is given;
- 2) Any action taken before the competent authority responsible for the enforcement and implementation of this Proclamation until a final decision is given in writing;
- 3) The written admission of the other party as to the validity of claim'; provided, however, that a period of limitation interrupted on such ground may not be interrupted for more than three times in the aggregate.

166. Waiver of Limitation

Any party may waive his right to raise a period of limitation as a defense; provided, however, that a waiver of such right made before the date of expiry of the period of limitation shall have no effect.

167. Discretion of the Competent Authority

- 1) The organ responsible for the determination of labour disputes may accept an action after the expiry of a period of limitation if it ascertains that the delay is due to force majeure; provided, however, that such ground shall not be acceptable unless the action is brought within ten days from the date the force majeure ceases to exist.
- 2) Without affecting the generality of the provisions of sub-article (1) of this Article, the following shall be considered as force majeure for disregarding a period of limitation:
 - a) Illness of the worker;
 - b) Transfer of the worker to a place out of his residence in fulfillment of job tasks;
 - c) Call of the worker for national service.

**CHAPTER TWO
PRIORITY OF CLAIMS**

168. Priority over other Debts

Any claim by a worker emanating from employment relations shall have priority over other payments or debts.

169. Procedure of Payment of Claims

- 1) In the event that the under taking is liquidated, execution officers or other persons authorized by law or the court to execute such liquidations shall have the duty to pay the claims

referred to in Article 168 of this Proclamation with in thirty days following the decision of the competent authority.

- 2) Where the claims are not satisfied within the time limit set forth in sub-article (1) of this Article due to lack of asset, they shall be paid as soon as the necessary resource are available.

170. Lien of Home Workers

Where an under taking is liquidated or ceases to operate, home workers may exercise alien on goods in their possession that they have produced for the under taking and such lien shall be of equal value with their claims. Such measure shall be deemed an action taken to enforce the right provided for in Article 168 of this Proclamation.

PART ELEVEN

Enforcement of Labour law

CHAPTER ONE

Labour Administration

171. Powers of the Ministry

- 1) The Ministry may issue directives necessary for the implementation of this Proclamation, in particular, with respect to:
 - a) Occupational safety, health and the protection of working environment;
 - b) Standards for working conditions;
 - c) Determination of hazardous jobs;
 - d) In consultation with the concerned organs, the type of works which are particularly hazardous or dangerous to the health and to the reproductive systems of women workers;
 - e) Types of works which require work permits for foreigners and, in general, the manner of giving work permits; conditions on which private employment agencies are to operate locally;
 - f) In consultation with other relevant organs, determine conditions of homework contracts, and the types of occupations in which apprenticeship need to be offered and other issues related thereto;
 - g) Procedures for registration of vacancies and job-seekers;
 - h) Procedure for the reduction of work force;
 - i) Determine undertakings required to arrange insurance coverage for the payment of employment injury benefits;
 - j) Procedures on the establishment of Permanent Advisory Board and the duties and responsibilities thereto;
 - k) Conditions for Private Employment Agency to participate in local Employment service.
 - l) Procedures on the requirements for the certification of

- private labour inspection service providers;
- m) Procedures on the establishment of Occupational Safety and Health Committee in undertakings;
- 2) The Ministry shall put in place an integrated labour administration system to initiate labour laws and policies, to coordinate, follow up and enforce their implementation, and to enhance employment service and a labour inspection service and establish a Permanent Advisory Board which consists of members representing government, employers' associations and trade unions to advise the same.
- 3) The appropriate Authority shall establish a Permanent Advisory Board consisting of members representing government, employers' associations and trade unions that will advise it after studying and examining the implementation of labour laws and policies and the administration of employment services and labour inspection services.

SECTION ONE EMPLOYMENT SERVICE

172. General

Employment services shall include the following:

- 1) Assisting persons who are capable and willing to work to obtain employment;
- 2) Assisting employers in the recruitment of suitable workers for their job positions;
- 3) Determining the manner in which foreign national are to be employed in Ethiopia;
- 4) Cooperating with the concerned offices and organizations, in the preparation of training programmers';
- 5) Conducting studies pertaining to the labour market;
- 6) In collaboration with the concerned offices, conducting studies relating to the manner of improving vocational training at the country level and disseminating same to beneficiaries and implementing the employment policy properly.

173. Employment Exchange

Employment exchange shall include the following:

- 1) Registration of job-seekers and vacancies; and
- 2) Selecting from among the registered job-seekers and sending those who meet the requirements to compete for the positions notified by employers.
- 3) Any job seeker who has attained the age of 15 years may up on presenting the necessary documents be registered by the organ delegated by the pertinent authority.

174. Conditions for the Private Employment Agencies to participate in Provision of local Employment service

With the view to promote a comprehensive national employment service, private Employment Agencies can participate in the sector as per the Regulations and Guidelines that will be issued by the government.

175. Licensing of Private Employment Agencies

- 1) Any person who desires to engage in private employment agency pursuant to this Proclamation shall acquire license from the Competent Authority.
- 2) The appropriate Authority shall levy service charge prescribed by the regulation to be issued by the Council of Ministers for purposes of issuance, renewal or replacement of licenses.

176. Employment of Foreign Nationals

- 1/ any foreigner may only be employed in any type of work in Ethiopia where he possesses a work permit given to him by the Ministry.
- 2/ a work permit shall be given for an employment in a specific type of work for three years and shall be renewed every year; provided, however, that the Ministry may vary the three years limit as required.
- 3/ Where the Ministry ascertains that the foreigner is not required for the work, the work permit may be cancelled.
- 4/ The Ministry may, in accordance with the law, charge service fees for the issuance, renewal or replacement of work permit.

**SECTION TWO
LABOUR INSPECTION SERVICE**

177. General

Labour inspection service shall include the following activities:

- 1) Ensuring the implementation of the provisions of this Proclamation, regulations and directives issued in accordance with this Proclamation, other laws relating to labour relations, registered collective agreement, and the decisions and orders given by the authorities responsible to determine labour disputes;
- 2) conducting studies and research, supervision, educating, and developing labour standards to ensure the enforcement of the provisions of this Proclamation and other laws regarding working conditions, occupational safety, health and working environment ;
- 3) preparation of list of occupational diseases and schedules of degrees of disablement;
- 4) classifying dangerous occupations and undertakings;

- 5) conducting studies and compiling statistical data relating to working conditions;
- 6) preparing training programs to workers in order to prevent employment injuries;
- 7) monitoring the construction of new undertaking, the expansion and renovation of existing undertakings and the erection of machineries to ensure the safety and health of workers;
- 8) taking administrative measures with a view to implementing this Proclamation and regulations and directives issued in accordance with this Proclamation;
- 9) taking appropriate measures to request the authorities responsible for determining labour disputes and the courts to enforce the provisions of this Proclamation and sanctions imposed by a labour inspection service in the course of its lawful activities.
- 10) issuance of certificate of competence to private inspection service which desire to engage in workplace technical inspection, consultancy and training on the subject; and monitor their performance;

178. Powers and Duties of Labour Inspectors

- 1) The Ministry or the appropriate Authority shall assign labour inspectors who are authorized to carry out the responsibilities of follow-up and supervision of the inspection service.
- 2) In administering their responsibilities, labour inspector shall have an identity card issued by the Ministry or the appropriate Authority bearing an official seal.
- 3) A labour inspector shall have the power to enter into, during any working hours without prior notice, any work place which he may think necessary to inspect in order to examine, test or enquire to ascertain observation of the provisions of Article 177 of this Proclamation and, in particular, to:
 - a) Interrogate any person alone or in the presence of witnesses;
 - b) check, copy or extract any paper, file or other documents;
 - c) take any sample of any matter in a workplace and to test it to ensure that it does not cause injury to workers;
 - d) ensure that the relevant notices are affixed at the appropriate place of work;
 - e) take picture of any worker, and measure, draw or test buildings, rooms, cars, factories, machineries or goods and copy and registered documents in order to ensure the safety and health of workers;
- 4) Where a sample is taken in accordance with sub-article

3(c) of this Article, the employer shall be informed in advance and the manager or his representative shall have the right to be present at that occasion.

179. Measures to be taken by Labour Inspection

- 1) Where a labour inspector finds that the premises, plant, machinery, equipment or material or the working methods of any undertaking constitute a threat to the health, safety or welfare of its workers, he shall instruct the employer to take the necessary corrective measure within a given period of time.
- 2) Where the employer fails to take such steps within the given period after receiving instructions in accordance with sub-article (1) of this Article, the labour inspector shall issue an order requiring the employer;
 - a) that alteration in existing conditions which may be necessary to prevent the threat to the health, safety or well-being of the workers be completed within a stated period of time;
 - b) That any measure which may be necessary to prevent imminent danger to the safety or health of the workers be taken immediately.
- 3) Where the labour inspector is in doubt about the technical or legal danger of any particular case, he shall report same to the Ministry or appropriate authority requesting that pertinent decision is given and orders issued accordingly.

180. Appeal

- 1) Where an employer is aggrieved by an order given in accordance with sub-article (1) or (2) of Article 179 of this Proclamation, it may appeal to the competent court within five working days; provided, however, that there shall be no stay of execution of the order given by the labour inspector to avert an imminent danger pursuant to sub-article 2 (b) of Article 179 of this Proclamation until decision is given on the appeal.
- 2) Decision of the Court on the appeal lodged in accordance with sub-article (1) of this Article shall be final. Where an employer does not appeal within the time limit, the decision shall be executed.

181. Restriction on the Functions and responsibility of Labour Inspectors

- 1) Labour inspectors shall perform their duties diligently and impartially. They shall take into account any reasonable suggestions given to them by employers and workers.
- 2) No labour inspector shall, at any time, whether during or after he left his employment, reveal any secrets of manufacturing, commercial or other working processes to third parties which

may come to his attention in the course of his duties under this Proclamation.

- 3) No labour inspector shall reveal to any person other than the concerned official the sources of any complaint brought to his attention concerning a defect or breach of legal provision and, in particular, he shall not make any indications to any employer or his representative that his inspection visit was made in response to a complaint filed with the labour inspection service.
- 4) A labour inspector shall, in all cases, notify the employer of his visit to the premises of the undertaking unless he considers such notification may be prejudicial to the execution of his duties.
- 5) No labour inspector shall inspect any undertaking of which he is an owner or in which he has an interest.
- 6) A labour inspector shall refrain from engaging or acting as a conciliator or an arbitrator in a labour dispute or collective bargaining.

182. Prohibited acts

The following acts shall be deemed to constitute obstruction of a labour inspector in the performance of his duties:

- 1) Preventing a labour inspector or from entering a work place or from staying in the premises;
- 2) refusing to let a labour inspector examine records or documents relevant for his tasks;
- 3) concealing data relating to employment injury and the circumstance in which they occur;
- 4) Any other conducts that delays or interferes with the exercise of the functions of a labour inspector.

183. Private Inspection Service

- 1) Any person may conduct technical inspection, consultancy or training provided that it has been certified by the Ministry or the appropriate Authority to engage in occupations that demand special skill and technical qualifications.
- 2) The Certificate of Competence indicated under sub-article (1) of this Article shall be issued by the Ministry or the appropriate Authority
- 3) The service charge to be levied in order to issue the certificate pursuant to sub-article (1) of this Article and other related issues shall be prescribed by Regulations of the Council of Ministers.

PART TWELVE

Administrative measures and miscellaneous provisions

CHAPTER ONE

Administrative Measures

184. General

Without prejudice to the criminal liability; the administrative measures laid down from article 185 up to 187 shall be applicable.

185. Measures against Employer

1) An employer who:

- a) Causes workers to work beyond the maximum working hours set forth in this Proclamation or contravenes in any manner the provision relating to working hours;
- b) Infringes the provisions of this Proclamation regulating weekly rest days, public holidays or leaves; or
- c) contravenes the provisions of Article 19 of this Proclamation; shall by taking in to account its economic and organizational standing and the manner the fault was committed will be fined from Birr 5,000 up to 10,000 if the violation is for the first time, from Birr 10,000 up to 15,000 if it is committed for the second time and from birr 15,000 -30,000 it is committed for the third time. Whereas if the act is committed more than three times may result Closure of the under taking.

2) An employer who:

- a) fails to fulfill the obligations laid down in Article 12(5) of this Proclamation;
- b) fails to keep records prescribed by this Proclamation or other legal instruments issued hereunder or failed to submit them in due time or when so requested;
- c) violates the provisions of Article 14(1) of this Proclamation; or
- d) terminates a contract of employment in violation of the provisions of Article 26 (2) of this Proclamation; shall by taking in to account its economic and organizational standing and the manner the fault was committed will be fined from Birr 10,000 up to 20,000 if the violation is for the first time, from Birr 20,000 up to 40,000, if it is committed for the second time and from birr 40,000 -60,000, if it is committed for the third time. Whereas if the act is committed more than three times may result Closure of the under taking.

186. Common measures

1) Any employer, employers' association, a representative of an

employer, a trade union or trade union leader who:

- a) violates regulations and directives issued in accordance with this Proclamation pertaining to the safety of workers and commit an act which expose the life and health of a worker to a serious danger or does not accord special protection to women workers or young workers as provided for in this Proclamation;
- b) violates Article 117 of this Proclamation;
- c) contravenes the provisions of Article 161 of this Proclamation;
- d) fails to comply with an order given by a labour inspector in accordance with this Proclamation or the provisions of other laws
- d) intentionally submits inaccurate information or declarations to pertinent organs; Shall be fined Birr 5,000 up to Birr 20,000; where the violation is for the first time, and a fine of Birr 20,000 up to 40,000, if the violation is for second time, and a fine of up to Birr 70,000 if it is committed for the third time. Whereas if the act is committed more than three times may result Closure of the under taking.
- 2) taking in to account the economic and organizational standing of the undertaking or the trade union's general set up and the manner the violation was committed, any employer, trade union, trade union leader or a representative of an employer who violates the provisions sub-article (2) or (4) of Article 131 of this Proclamation shall be fined up to Birr 5,000 up to 20,000, where the violation is for the first time, and a fine of Birr 20,000 up to 40,000 if the violation is for second time, and a fine of Birr up to 70,000 where the violation committed more than twice.

187. Measures Against private employment agency

- 1) Any person who, without having obtained a license in accordance with this proclamation, or regulation, or directives issued pursuant to this proclamation and engages in providing employment exchange service in Ethiopia, shall be punishable with imprisonment for a term of not less than five years and not exceeding ten years and with a fine of Birr 100,000(hundred thousand Birr)
- 2) Any private employment agency which engages, while its license is suspended, in any employment exchange activity, shall be punishable with imprisonment for a term of not less than three years and not exceeding five years and with a fine of birr 75,000(seventy five thousand Birr).
- 3).Any person who commits an offense other than those stated under sub article (1) and (2) of this Article, by violating provision regulations or directives issued pursuant to this proclamation be

punishable with imprisonment of up to two years or with fine of up to birr75,000(seventy five thousand Birr).

188. The power to institute cases

Labour Inspectors shall have the power to file suits against violations committed the provisions of this Proclamation and regulations and directives issued here under to the courts having jurisdiction to try them.

CHAPTER TWO
MISCELLANEOUS PROVISIONS

189. Period of Limitation

No proceedings of any kind referred to in this Proclamation shall be instituted where one year has elapsed from the date on which the fault was committed.

190. Transitory Provisions

Notwithstanding the provisions of Article 192 of this Proclamation:

- 1) Regulations and directives issued pursuant to Proclamation No. 377/1996 (as amended) shall remain enforce, in so far as they are not inconsistent with this Proclamation;
- 2) collective agreements concluded pursuant to Proclamation No. 377/1996 (as amended) shall be deemed to have been concluded in accordance with this Proclamation and be governed by the provisions of this Proclamation;
- 3) trade unions and employers association established in accordance with Proclamation No. 377/1996 (as amended) shall be deemed to have been established in accordance with this Proclamation;
- 4) labour advisory board and labour tribunal board established in accordance with Proclamation No. 377/1996 (as amended) shall be deemed to have been established in accordance with this Proclamation;
- 5) Labour disputes pending before any labour tribunal to settle labour dispute prior to the coming into force of this Proclamation shall be disposed in accordance with the previous Proclamation.

191. Determination of degree of disablement

Until such time the schedule determining the degree of disablement is issued pursuant to Article 102(1) of this Proclamation, the Medical Board shall continue its regular assessment of disability.

192. Repeal laws

- 1) The Labour Proclamation No. 377/2003; Proclamation No. 466/2005, Proclamation No.494/2006 and proclamation 632/2001 are hereby repealed.
- 2) No laws and practices shall, in so far as they are inconsistent with this Proclamation, have force or effect in respect of matters provided for in this Proclamation.

193. Effective Date

This Proclamation shall enter in to force on the date of its publication in the Federal Negarit Gazeta.

Done at Addis Ababa this-----day of -----,

Sahilework Zewudie
PRESIDENT OF THE FEDERAL DEMOCRATIC REPUBLIC OF
ETHIOPIA