

**CHAPTER 268**  
**EMPLOYMENT ACT**

**Arrangement of Sections**

*Section*

PART I  
PRELIMINARY

1. Short title
2. Application and power of exemption
3. Interpretation

PART II  
APPOINTMENTS, POWERS AND DUTIES OF OFFICERS

4. Appointment of officers
5. Delegation by Labour Commissioner
6. Powers of labour officers
7. Duties of public officers
8. Offence to delay or obstruct officers
9. Saving of other laws
10. Labour officers to be provided with and to produce certificates of appointment
11. Power to require returns

PART III  
CONTRACTS OF SERVICE GENERALLY

12. Minimum contractual age
- 12A. Casualisation, application and prohibition of casualisation
13. Repatriation
14. Employer to provide transport on repatriation
15. Holidays with pay
- 15A. Maternity leave
- 15B. Prohibition of termination of employment for reasons connected with pregnancy

15C. Repealed

PART IV  
ORAL CONTRACTS OF SERVICE

16. Application of Part IV

17. Contracts not required to be in writing

18. Presumptions as to periods of oral contracts

19. Presumptions as to new contract

20. Termination by notice

21. Termination by payment

22. Repealed

23. Repealed

24. Record of oral contracts

25. Summary dismissal

26. Right to wages on dismissal for lawful cause

26A. Termination on grounds related to conduct or performance

26B. Termination by redundancy

27. Offence

PART V  
WRITTEN CONTRACTS OF SERVICE

28. Contracts required to be in writing

28A. Deeming contract of service to be short-term contract

28B. Deeming short-term contract as fixed-term contract

28C. Regulation of fixed-term contract

29. Attestation

30. Contents of written contracts

31. Family of employee not bound by contract

32. Duty of proper officer

33. Repealed

34. Medical examination

35. Transfer of contract

36. Termination of contract
37. Security in contracts of foreign service
38. Foreign contracts of service and contracts made abroad
39. Inducing persons to proceed abroad without a contract of foreign service
40. Continued employment under oral contract

PART VI  
HOUSING AND WELFARE

41. Housing of employees
42. Water for use of employees
43. Medical attention

PART VII  
PROTECTION OF WAGES

44. Wages to be paid to employee in currency of Republic
45. Authorised deductions
46. Repealed
- 46A. Repealed
47. Unauthorised deductions
48. Wages, when due and payable
49. Disposal of wages
50. Record of wage payments to be kept by employer
51. Explanation of wages and conditions of employment
52. Provisions to be displayed
53. Wages not to accrue during imprisonment
54. Wages while incapacitated
55. Offences

PART VIII  
EMPLOYMENT AGENCIES

56. Prohibition of operation of employment agency without employment agency permit
57. Application for employment agency permit
58. Display of permit

- 58A. Prohibition of transfer of permit
- 58B. Amendment of permit
- 58C. Suspension or revocation of permit
- 58D. Surrender of permit
- 58E. Renewal of permit
- 58F. Loss of permit
- 59. Conditions of operation of employment agency and fees
- 60. Keeping of registers and submission of returns
- 61. Offences by employment agencies
- 62. Single licensing
- 63. Appeal

PART IX  
DISPUTES AND BREACHES OF CONTRACT

- 64. Disputes to be referred to a labour officer
- 65. Powers of labour officer in respect of offences
- 66. Personal attendance at court may be dispensed with
- 67. Arrest of absconding defendant
- 68. Procedure to be applied to proceedings under this Act
- 69. Determination of age

PART X  
POWERS OF COURTS AND OFFENCES

- 70. Powers of Courts
- 71. Court may order payment of compensation
- 72. Cancellation of contract
- 73. Employees under 16 not subject to penal provisions
- 74. Assessment of wages, etc.
- 75. Offences
- 76. Offences by employers
- 77. General penalty

PART XI  
MISCELLANEOUS

- 78. Contracts made before commencement of Act and foreign contracts
- 79. Certificate of service, testimonials and references
- 80. Regulations
- 81. Repealed

**AN ACT**

**to provide legislation relating to the employment of persons; to make provision for the engagement of persons on contracts of service and to provide for the form of and enforcement of contracts of service; to make provision for the appointment of officers of the Labour Department and for the conferring of powers on such officers and upon medical officers; to make provision for the protection of wages of employees; to provide for the control of employment agencies; and to provide for matters incidental to and consequential upon the foregoing.**

[Date missing]

Act 57 of 1965,  
Act 28 of 1971,  
Act 29 of 1975,  
Act 18 of 1982,  
Act 15 of 1989,  
Act 8 of 1992,  
Act 13 of 1994,  
Act 28 of 1994,  
Act 15 of 1997,  
Act 15 of 2015,  
Act 20 of 2017\*.

**PART I**  
**PRELIMINARY**

- 1. Short title

This Act may be cited as the Employment Act.

- 2. Application and power of exemption

(1) Subject to the provisions of sub-section (2), the provisions of this Act shall bind the Republic:

Provided that this sub-section shall not have effect in relation to the following—

- (i) persons in the Defence Force (other than locally engaged civilian employees);
- (ii) members of the Zambia Police Force;
- (iii) members of the Zambia Prison Service.

[S 2(1) am by Act 28 of 1971]

(2) ...

[S 2(2) rep by s 2 of Act 15 of 1997.]

### 3. Interpretation

In this Act, unless the context otherwise requires—

**“advance”** includes any payment in money to any person upon condition that he repays or makes good the same by his labour or out of the wages to be received by him under a contract of service;

**“casual employee”** means a person whose employment—

- (a) is not permanent in nature;
- (b) does not require any skill in the performance of the work to be done; and
- (c) terms provide for payment at an hourly rate, payable at the end of each day;

[Subs by s 2(a) of Act 15 of 2015.]

**“casual work”** means work that is not permanent in nature, but excludes the exceptions specified in sub-section (1) of section 12A;

[Ins by s 2(b) of Act 15 of 2015.]

**“casualisation”** means the employment of a person under a contract of service for work which is permanent in nature under terms and conditions of employment for a casual employee, but excludes the exceptions specified in sub-section (1) of section 12A;

[Ins by s 2(b) of Act 15 of 2015.]

**“collective agreement”** means an agreement voluntarily negotiated between employers or associations of employers and employees or associations of or representing employees in which are laid down the conditions of employment and remuneration for employees;

**“consultancy agreement”** means an agreement between two or more parties relating to the rights and duties of the parties under which one or more of the parties is an expert or are experts engaged to do specialised work related to the expert’s professional or technical capacities;

[Ins by s 2(b) of Act 15 of 2015.]

**“contract of foreign service”** means a contract of service made within Zambia which is to be performed, wholly or in part, outside Zambia:

Provided that—

(i) a contract in which an employee is required to perform a journey from some place within Zambia to any place outside Zambia and to return to Zambia within one month of the commencement of such journey, if such journey may reasonably be expected to be completed within one month of its commencement; or

(ii) a contract which provides for courses of training, part or all of which are to be performed outside of Zambia;

shall not be deemed to be a contract of foreign service;

**“contract of service”** means an agreement establishing an employment relationship between two or more parties whether express or implied, and if express, whether oral or in writing;

[Ins by s 2(b) of Act 15 of 2015.]

**“court”** means the Supreme Court, and the Industrial Relations Court;

[Subs by s 3 of Act 15 of 1997.]

**“employee”** means a person who, in return for wages, enters into a contract of service whether on full time, part time or temporary basis or who is engaged to do casual work, but does not include a person employed under a contract of apprenticeship made in accordance with the Apprenticeship Act, an independent contractor or a person engaged to do piece work;

[Subs by s 2(a) of Act 15 of 2015.]

**“employer”** means any person, or any firm, corporation or company, public authority or body of persons who or which has entered into a contract of service to employ any person, and includes any agent, representative, foreman or manager of such person, firm, corporation, company, public authority or body of persons who is placed in authority over such person employed;

**“employment agency”** means a natural or legal person or an unincorporated body of persons providing one or more of the following labour market services—

(a) matching offers of, and applications for, employment without the employment agency becoming a party to the employment relationship which may arise therefrom;

(b) employing persons with a view to making them available to a third party, who may be a natural or legal person that assigns their tasks and supervises the execution of these tasks; or

(c) services relating to job seeking as may be prescribed by the Minister, in consultation with the Tripartite Consultative Labour Council, in accordance with the Industrial and Labour Relations Act;

[Subs by s 2(a) of Act 15 of 2015.]

**“employment relationship”** means a situation where work is carried out in accordance with instructions and under the control of an employer and may include—

(a) the integration of the employee in the organisation of the enterprise where the work is—

(i) performed solely or mainly for the benefit of an employer;

(ii) carried out personally by the employee; and

(iii) remunerated and constitutes the employee’s sole or principal source of income; or

(b) work—

- (i) carried out within specific working hours or at a workplace specified by the employer;
- (ii) which is of a particular duration and has a certain permanency;
- (iii) that requires the worker’s availability; and
- (iv) which requires the provision of tools, materials and machinery by the employer;

[Ins by s 2(b) of Act 15 of 2015.]

“**fixed-term contract**” means a contract of service for—

- (a) a period exceeding 12 months, renewable for a further term, subject to section 28C; or
- (b) the performance of a specific task or project to be undertaken over a specified period of time; and whose termination is fixed in advance by both parties;

[Ins by s 2(b) of Act 15 of 2015.]

“**flexibilisation**” means an employment trend that is characterised by different aspects of human resource management, such as—

- (a) pay flexibility, which is focused on performance related pay and pay bargaining;
- (b) contractual flexibility, which is focused mainly on nonpermanent contracts of service, sub-contracting and outsourcing;
- (c) task flexibility, which allows employees to perform various activities; and
- (d) working hours flexibility, which focuses on part-time working, job sharing and flexi hours of work;

[Ins by s 2(b) of Act 15 of 2015.]

“**full-time**” means employment under a contract of service that stipulates the maximum number of statutory or conventional hours prescribed for a week, month or year, but excludes overtime work;

[Ins by s 2(b) of Act 15 of 2015.]

“**Labour Commissioner**” means the person appointed or deemed to have been appointed as such in pursuance of the provisions of section 4;

“**labour officer**” means any person appointed or deemed to have been appointed as a labour officer pursuant to the provisions of section 4 and includes the Deputy Labour Commissioner, an Assistant Labour Commissioner and a Labour Inspector;

“**medical officer**” means any Government medical officer or any medical practitioner approved by the Director of Medical Services for the purposes of any of the provisions of this Act relating to medical officers;

“**micro business enterprise**” has the meaning assigned to it in the Zambia Development Agency Act, 2006;

[Ins by s 2(b) of Act 15 of 2015.]

“**month**” means a calendar month;



**“part-time”** means employment under a contract of service that stipulates working hours of at least one-fifth less than the number of hours, prescribed under the Minimum Wages and Conditions of Employment Act or as specified in a collective agreement made in accordance with the Industrial and Labour Relations Act, for full-time work calculated on a weekly, monthly or yearly basis;

[Ins by s 2(b) of Act 15 of 2015.]

**“permanent in nature”** means—

(a) employment that exceeds six months, is not casual work and is under a written contract of service; or

(b) a position in an undertaking that is necessary for the continued or sustainable operation of the undertaking or is core to the objectives of the undertaking.

[Ins by s 2(b) of Act 15 of 2015.]

**“permit”** means an employment agency permit issued under section 56;

[Ins by s 2(b) of Act 15 of 2015.]

**“piece work”** means any work the pay for which is estimated by the amount of work performed irrespective of the time occupied in its performance;

**“proper officer”** means the Labour Commissioner or any labour officer;

**“recruiting”** includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment or at a labour or employment office established by the Government, or at an office conducted by an employer's organization established for the purpose of receiving applications for employment, and “recruit” shall be construed accordingly:

Provided that it shall not include the following classes of recruiting operations—

(a) operations undertaken by or on behalf of employers who do not employ more than a limited number of employees, which number shall be prescribed by the Minister;

(b) operations for the engagement of personal and domestic servants and non-manual workers;

(c) operations undertaken within a limited radius prescribed by the Minister from the place of employment;

**“seasonal employment”** means employment under a contract of service where the timing and duration of the contract is influenced by seasonal factors such as climate, agricultural or business peak cycle;

[Ins by s 2(b) of Act 15 of 2015.]

**“short term contract”** means a contract of service of six months but not exceeding 12 months;

[Ins by s 2(b) of Act 15 of 2015.]

**“single licensing system”** has the meaning assigned to it in the Business Regulatory Act, 2014

[Ins by s 2(b) of Act 15 of 2015.]

**“small business enterprise”** has the meaning assigned to it in the Zambia Development Agency Act, 2006

[Ins by s 2(b) of Act 15 of 2015.]

**“task”** means such amount of work performed in a trade, occupation or undertaking in a given period of time;

[Subs by s 3 of Act 15 of 1997.]

**“temporary employment”** means service under a contract of service where a person is engaged to do relief work in the absence of a substantive employee, and may include employment which is part-time, but does not include a person engaged on a short-term contract;

[Ins by s 2(b) of Act 15 of 2015.]

**“wages”** means the remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by a contract of service or a contract of foreign service which are payable by an employer to an employee or a casual employee for work done or to be done or for services rendered or to be rendered;

**“young person”** means a person who has not attained the age of 15 years.

[Subs by s 3 of Act 15 of 1997; am by Act 28 of 1971.]

## **PART II**

### **APPOINTMENTS, POWERS AND DUTIES OF OFFICERS**

#### 4. Appointment of officers

There shall be a Labour Commissioner who shall be responsible to the Minister for the administration of this Act, and such number of labour officers as may be necessary for the purposes of this Act:

Provided that any person who, before the commencement of this Act, was appointed to be a Labour Commissioner or a labour officer shall be deemed to have been appointed for the purposes of and in pursuance of the provisions of this Act.

#### 5. Delegation by Labour Commissioner

(1) The Labour Commissioner may, with the consent of the Minister, delegate in writing to any person the exercise of any of his powers and the performance of any of his duties, either in Zambia as a whole, or in any part thereof, in relation to any matter or thing provided for by this Act.

(2) The Labour Commissioner may cancel or suspend any delegation made under sub-section (1).

[S 5(2) subs by s 4 of Act 15 of 1997.]

#### 6. Powers of labour officers

(1) The powers and duties conferred or imposed upon labour officers by the provisions of this section shall be in addition to any other powers or duties conferred or imposed upon them by or under any other written law.

(2) A labour officer shall, for the purposes of this Act, have power to do all or any of the following—

(a) to enter freely at any reasonable time, whether by day or by night, any workplace or conveyance where he may have reasonable cause to believe persons are being employed and to inspect such workplace or conveyance:

Provided that this power shall not be exercised except during the hours of daylight in relation to any private dwelling-house or any land or building occupied in connection therewith;

(b) to enter by day any premises in order to carry out any examination, test or inquiry which he may consider necessary in order to satisfy himself that the provisions of this Act are being complied with, and in particular—

(i) to interrogate, whether alone or in the presence of witnesses, any employer, employee or casual employee on any matter concerning the application of any of the provisions of this Act, and to question any other person from whom he considers useful information may be obtained, so, however, that no one shall be required to answer any questions tending to incriminate himself;

(ii) to require the production for examination of any book, register, account or other document, the keeping of which is prescribed by this Act, and to copy such documents or to make extracts therefrom and, if he considers such a course necessary or expedient, to remove such book, register, account or other document;

(iii) to enforce the posting of notices in such places and in such manner as may be prescribed.

(3) A labour officer shall, on the occasion of any inspection or visit, notify the employer or his representative of his presence, unless it is considered by the labour officer concerned that such notification may be prejudicial to the performance of his duties.

(4) The powers conferred upon a labour officer by the provisions of this Act may be exercised by the Labour Commissioner and, for the purposes of carrying out any of his functions under this Act or any other written law, by a medical officer.

(5) Where a labour officer removes a book, register, account or other document in pursuance of the provisions of subparagraph (ii) of paragraph (b) of sub-section (2), he shall give a receipt in respect of such book, register, account or other document to the employer or his representative.

[S 6 am by Act 28 of 1971.]

## 7. Duties of public officers

(1) A public officer called upon to discharge duties of a public nature under the provisions of this Act shall not have any pecuniary interest, directly or indirectly, in any undertaking under his supervision.

(2) Any person who, in the exercise of his powers under this Act or in the performance of his duties under this Act, acquires information relating to the financial affairs, or the secret processes, or the plant or equipment of any other person, firm or business, shall not, save for the purposes of legal proceedings under this Act, disclose such information to any other person, except—

(a) to a court of law or to any person who by law is invested with the power to compel the disclosure of such information; or

(b) to the Commissioner or to any person acting in the execution of this Act, in so far as such information may be necessary for the execution thereof.

[S 7(2)(b) am by s 5 of Act 15 of 1997.]

(3) Any person who contravenes the provisions of this section shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding 12 months, or to both.

[S 7 am by Act 13 of 1994.]

#### 8. Offence to delay or obstruct officers

(1) Any person who—

(a) willfully obstructs, hinders or delays a proper officer or a medical officer in the exercise of any of the powers conferred upon him by the provisions of this Act; or

(b) without reasonable cause, fails to comply with any lawful direction given or made by a proper officer or a medical officer under the provisions of this Act; or

(c) fails to produce any book, account, register or other document which he is required to produce under the provisions of this Act; or

(d) conceals, or attempts to conceal, any employee or casual employee who is required to appear before, or to be examined by, any labour officer, or who otherwise prevents, or attempts to prevent, any such employee or casual employee from so appearing or being examined;

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