

**SERVICES:**

- RECRUITMENT
- SALARY SURVEY
- RECRUITMENT ADVERTISING
- HR OUTSOURCING

Home

Selection of
clients

Employers

Job Hunting

Relevant
Legislation

Job Listing

Feedback

Job Vacancies

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

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

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

SNV

[Senior Advisor Public
sector Decentralisation
Mongu](#)

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 Repealed by Act No. 15 of 1997

PART IV

ORAL CONTRACTS OF SERVICE

Section

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 Repealed by Act No. 15 of 1997

23. Repealed by Act No. 15 of 1997

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

29. Attestation

30. Contents of written contracts
31. Family of employee not bound by contract
32. Duty of proper officer
33. Repealed by Act No. 15 of 1997
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

Section

44. Wages to be paid to employee in currency of Republic
45. Authorised deductions
46. Repealed by Act No. 15 of 1997
- 46A. Repealed by Act No. 15 of 1997
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. Employment agencies to be licensed

57. Labour Commissioner may refuse licence

58. Repealed by Act No. 28 of 1994

59. Fees

60. Keeping of registers and submission of returns

61. Offences by employment agencies

62. Offence to operate as employment agency without a licence

63. Offence to recruit or to assist in recruiting

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

Section

70. Powers of courts

- 71. Court may order payment of compensation
- 72. Cancellation of contract
- 73. Employees under sixteen 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 by Act No. 8 of 1992

CHAPTER 268

EMPLOYMENT

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.

Act

- 57 of 1965
- 28 of 1971
- 29 of 1975
- 18 of 1982
- 15 of 1989
- 8 of 1992
- 28 of 1994
- 13 of 1994

15 of 1997

PART I

PRELIMINARY

1. This Act may be cited as the Employment Act. Short title

2. (1) Subject to the provisions of subsection (2), the provisions of this Act shall bind the Republic: Application and power of exemption

Provided that this subsection 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.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997)

3. In this Act, unless the context otherwise requires- Interpretation

"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 any employee the terms of whose employment provide for his payment at the end of each day and who is engaged for a period of not more than six months;

"court" means the Supreme Court, and the Industrial Relations Court;

"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;

"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;

"employee" means any person who has entered into or works under a contract of service, whether the contract is express or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or kind, but does not include a person employed under a contract of apprenticeship made in accordance with the Apprenticeship Act or a casual employee; Cap. 275

"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 any person who acts either on his own behalf or as an intermediary for the purpose of obtaining employment for an employee or supplying an employee for an employer and who either charges an entrance fee, a periodical contribution or any other charge, or derives, either directly or indirectly, any pecuniary or other material advantage from either the employer or the employee, but does not include newspapers or other publications, unless they are published wholly or mainly for the purpose of acting as intermediaries between employees and employers;

"Labour Commissioner" means the person appointed or deemed to have been appointed as such in pursuance of the provisions of section four;

"labour officer" means any person appointed or deemed to have been appointed as a labour officer pursuant to the provisions of section four 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;

"month" means a calendar month;

"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 organisation 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;

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

"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 fifteen years.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997)

PART II

APPOINTMENTS, POWERS AND DUTIES OF OFFICERS

4. 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: Appointment of officers

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. (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. Delegation by Labour Commissioner

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

(As amended by Act No. 15 of 1997).

6. (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. Powers of labour officers

(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 subsection (2), he shall give a receipt in respect of such book, register, account or other document to the employer or his representative.

(As amended by No. 28 of 1971)

7. (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. Duties of public officers

(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.

(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 twelve months, or to both.

(As amended by Acts No. 13 of 1994 and No. 15 of 1997)

8. (1) Any person who- Offence to delay or obstruct officers

(a) wilfully 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;

shall be guilty of an offence.

(2) Every employment agency shall afford all facilities which may be reasonable or necessary to enable the Labour Commissioner or any labour officer to exercise any powers conferred upon

him by this Act, and any employment agency failing to afford such facilities shall be guilty of an offence.

(As amended by No. 28 of 1971)

9. Nothing in this Act shall operate to relieve any employer or employee of any duty or liability imposed on him by any other written law or to limit any powers conferred upon any public officer by any such law. Saving of other laws

10. (1) The Labour Commissioner shall issue to every labour officer such certificate of his appointment or authority so to act as may be prescribed, and when so acting, such labour officer shall, if so required by any person affected, produce the certificate. Labour officers to be provided with and to produce certificates of appointment

(2) If any person forges or unlawfully alters any certificate of appointment referred to in subsection (1) he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(As amended by Acts No. 13 of 1994 and No. 15 of 1997)

11. (1) The Labour Commissioner may, with the approval of the Minister, require an employer or employment agency to collect such statistics as he shall deem proper in respect of any employees, casual employees or persons engaged through an employment agency and may require employers or employment agencies to make returns based on such statistics at such intervals as he may deem fit. Power to require returns

(2) Any person who fails to comply with any requirement of the Labour Commissioner under this section shall be guilty of an offence.

(As amended by No. 28 of 1971)

PART III

CONTRACTS OF SERVICE GENERALLY

12. (1) Notwithstanding the provisions of the Employment of Young Persons and Children Act, but subject to the provisions of subsection (3), no person shall, except under conditions to be prescribed, employ or cause to be employed, any person under the age of fifteen years, and any person who contravenes the provisions of this subsection shall be guilty of an offence.
Minimum contractual age.

Cap. 274

(2) Where any contract of service is entered into between an employer and an employee or a casual employee who has not attained the age of sixteen years-

(a) the contract shall be deemed to be a daily contract notwithstanding any agreement, whether oral or in writing to the contrary; and

(b) the employer shall cause the contract to be attested by the proper officer;

(3) The provisions of subsection (1) shall not apply-

(a) in the case of a person, under the age of fifteen years, who is receiving full-time education at a school recognised as such under the Education Act, if he is employed during school vacations; Cap. 134

(b) in the case of a person, under the age of fifteen years, who has failed to secure admission to a suitable school or whose enrolment has been cancelled or terminated by the school authorities or for good cause by a parent:

Provided, however, that in either case, such child shall be employed only if the terms, conditions and nature of his employment are approved by a proper officer.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997)

13. (1) Whenever an employee has been brought from a place within Zambia to a place of employment by the employer, or by an employment agency acting on behalf of the employer, the employer shall pay the expenses of repatriating the employee to the place from which he was brought, in the following circumstances: Repatriation

(a) on the expiry of such period of service as may be specified in the contract of service;

(b) on the termination of the contract of service by reason of the inability, refusal or neglect of the employer to comply with all or any of the provisions of such contract;

(c) on the termination of the contract of service by agreement between the parties unless the contract otherwise provides;

(d) on the termination of the contract of service by reason of the inability of the employee to comply with the provisions thereof by reason of illness or accident not occasioned through his own fault.

(2) The expenses of repatriation shall include-

(a) reasonable travelling expenses, unless the employer provides transport as provided in subsection (1) of section fourteen, and subsistence expenses or rations during the journey;

(b) reasonable subsistence expenses or rations during the period, if any, between the date of termination of the contract of service and the date of the start of the journey:

Provided that an employer shall not be liable to provide subsistence expenses or rations in respect of any period during which the repatriation of the employee is delayed-

(i) by the employee's own fault or choice; or

(ii) for reasons connected with any war, civil tumult, rebellion or act of God, unless during such period the employer has been able to utilise the services of the employee at the rate of wages stipulated in the expired contract of service.

(3) Notwithstanding the provisions of subsections (1) and (2), a proper officer may exempt an employer from liability for all or any of the expenses of repatriation in any of the following cases:

(a) when he is satisfied that the employee does not wish to exercise his right to repatriation, or that the employee has been settled elsewhere at his request or with his consent;

(b) when the contract of service has been terminated otherwise than by reason of the inability of the employee to comply with the provisions thereof owing to illness or accident not occasioned through his own fault, or by death, and the proper officer is satisfied that-

(i) in fixing the rate of wages, proper allowance has been made for the payment of repatriation expenses by the employer; and

(ii) suitable arrangements have been made by means of a system of deferred pay or otherwise to ensure that the employee has the funds necessary to defray such expenses.

(4) When the family of an employee has been brought to the place of employment by the employer or by an employment agency acting on behalf of such employer, and the employee becomes entitled to repatriation expenses, or dies, the family or any member thereof shall be entitled to be repatriated to the place from which they were brought, and the employer shall pay the expenses of repatriating the family or any member thereof as provided in subsection (2).

(5) If an employer fails to comply with any of the provisions of this section, the duty laid on him thereby shall be discharged by or under the directions of a proper officer and any reasonable expenses thereby incurred shall be a debt due by the employer to the Government and in any suit to recover such a debt, a certificate signed by a proper officer shall be conclusive evidence of the amount of the expenses incurred.

(6) Notwithstanding the provisions of subsection (5), an employer who fails to comply with the provisions of this section, or with any lawful order or direction of a proper officer, shall be guilty of an offence.

14. (1) An employer shall, whenever possible, provide transport or pay for public transport for any person who is entitled to travelling expenses under the provisions of section thirteen.

Employer to provide transport on repatriation

(2) When an employer provides transport a proper officer shall take all necessary measures to ensure, and may give such directions to the employer as will ensure, that-

(a) the vehicles or vessels provided by the employer to be used for the transport of employees and their families on repatriation are suitable for such purpose, are in good sanitary condition and not overcrowded;

(b) when it is necessary to break the journey for the night, suitable accommodation is provided for such employees and their families;

(c) when employees and their families have to make long journeys on foot, the length of the daily journey is compatible with the maintenance of their health and strength;

(d) in the case of long journeys, all necessary arrangements are made for the health, safety and welfare of employees and their families.

(3) When employees have to make long journeys in groups, an employer shall ensure that they are conveyed by a person who is fit and who shall be responsible for their health, safety and welfare during the journey.

(4) An employer who fails to comply with the provisions of this section, or with any lawful order or direction of a proper officer, shall be guilty of an offence.

15. (1) Subject to any agreement between the parties providing for holidays with pay on conditions not less favourable to an employee than is provided for in this section, and subject to any statutory determination concerning holidays made in accordance with the Minimum Wages and Conditions of Employment Act, an employee shall, after six months' continuous service, be entitled to a holiday with full pay at the rate of two days in respect of each period of one month's service, to be taken at such time as shall be agreed between the parties: Holidays with pay

Cap. 276

Provided that where a contract of service is terminated otherwise than by an employee's desertion, resignation or summary dismissal before he has qualified for a holiday as aforesaid, he shall be entitled to be paid two days' full pay for each completed month of service.

(2) The holidays referred to under subsection (1) shall be in addition to any public holiday or weekly rest period, whether fixed by any law, agreement or custom, in respect of which the employee is not required to work under his contract of service.

(3) The Minister may, by statutory order, declare any day or days required to be observed as or declared to be public holidays under the Public Holidays Act to be paid public holidays, and on any day which has been declared to be a paid public holiday every employee shall be entitled to a holiday with full pay if he does not, without the permission of his employer or reasonable excuse, absent himself from duty either on the day immediately preceding or on the day following such public holiday: Cap. 272

Provided that where by virtue of any agreement or custom it is normal for an employee or class

of employees to work on any day declared to be a paid public holiday such employee or class of employees shall be entitled to payment of wages at such rate as may be agreed under a collective agreement or contract of service.

(4) For the purpose of this section, the expression "full pay" means basic pay, the cash equivalent of any food which may from time to time be provided, and working or other allowances where applicable for a period not exceeding one month, but does not include payments in respect of any bonus.

(5) Notwithstanding the provisions of subsection (1), an employer may, with the agreement of the employee, pay wages to such employee in lieu of any holiday due to the employee under that subsection and if any leave has been accumulated by an employee whose contract has terminated, the employer shall pay wages to the employee for the period of such accumulated leave.

(As amended by No. 28 of 1971 and Act No. 15 of 1997)

15A. (1) Subject to any agreement between the parties, or any other written law, providing for maternity leave on conditions not less favourable than are provided for in this section, every female employee who has completed at least two years of continuous service with her employer from the date of first engagement or since the last maternity leave taken, as the case may be, shall, on production of a medical certificate as to her pregnancy signed by a registered medical practitioner, be entitled to maternity leave of twelve weeks with full pay. Maternity leave

(2) The maternity leave granted under subsection (1) shall be exclusive of any other leave to which a female employee may otherwise be entitled.

(3) In case of illness which arises out of pregnancy and results in a female employee becoming temporarily incapable of performing her official duties, such employee shall be entitled to sick leave in accordance with the provisions of section fifty-four.

(4) Any employer who contravenes the provisions of this section shall be guilty of an offence.

(As amended by Act No. 18 of 1982)

15B. (1) An employer shall not terminate the services of a female employee or impose any other penalty or disadvantage upon such employee for reasons connected with such employee's pregnancy. Prohibition of termination of employment for reasons connected with pregnancy

(2) In the absence of proof to the contrary, an employer shall be deemed to have acted in contravention of subsection (1) if he terminates the contract of service or imposes any other penalty or disadvantage upon a female employee within six months after delivery.

(3) Any employer who contravenes the provisions of this section shall be guilty of an offence.

(As amended by Act No. 18 of 1982)

15C. Repealed by Act No. 15 of 1997.

PART IV

ORAL CONTRACTS OF SERVICE

16. The provisions of this Part shall apply to oral contracts. Application of Part IV

17. All contracts of service, other than contracts which are required by this Act or any other law to be made in writing, may be made orally. Contracts not required to be in writing

18. In the absence of any agreement to the contrary, an oral contract shall be deemed to be a contract for the period by reference to which wages are calculated: Presumptions as to periods of oral contracts

Provided that where wages are calculated by reference to any period of less than a day, then, in the absence of any agreement to the contrary, any such oral contract shall be deemed to be a daily contract.

19. Each party to an oral contract for a period not exceeding one month shall, on the termination of such contract, be conclusively presumed to have entered into a new oral contract for a further period of the same duration and subject to the same terms and conditions as those of the contract then terminated unless-

(a) notice to terminate the employment under section twenty has been given by either party and the period of notice has expired; or

(b) the contract has been terminated by payment in lieu of notice; or

(c) the contract has been summarily terminated by either party for lawful cause; or

(d) the contract has been otherwise lawfully terminated under the provisions of this Act:

Provided that nothing in this section shall apply to-

(i) contracts expressed to be terminable without notice or to be contracts to which this section does not apply;

(ii) contracts specifically expressed to be for one period of fixed duration and not to be renewable;

(iii) daily contracts where the wages are paid daily. Presumptions as to new contract

20. (1) Either party to an oral contract may terminate the employment on the expiration of notice given to the other party of his intention to do so, and where the notice expires during the currency of a contract period, the contract shall be thereupon terminated. Termination by notice

(2) In the absence of any agreement providing for a period of notice of longer duration, the length of such notice shall be-

(a) subject to the provisions of paragraph (b), twenty-four hours where the contract is for a period of less than a week;

(b) fourteen days where the contract is a daily contract under which, by agreement or custom, wages are payable not at the end of the day, but at intervals not exceeding one month;

(c) thirty days where the contract is for a period of one week or more.

(3) Notice to terminate employment may be either verbal or written and may be given at any

time, and the day on which the notice is given shall be included in the period of notice.

(4) Where notice is given, there shall be paid to the employee, on the expiration of the notice, all wages and benefits due to him.

21. Either party to an oral contract of service may terminate such contract-

(a) in the case of a contract which may be terminated without notice, by payment to the other party of a sum equal to all wages and other benefits that would have been due to the employee if he had continued to work until the end of the contract period;

(b) in any other case, by payment to the other party of a sum equal to all wages and other benefits that would have been due to the employee at the termination of the employment had notice to terminate the same been given on the date of payment. Termination by payment

22. Repealed by Act No. 15 of 1997.

23. Repealed by Act No. 15 of 1997.

24. (1) Every employer shall prepare and maintain at his expense, or cause to be prepared and maintained, a record of contract for every employee employed by him under an oral contract of service. Record of oral contracts

(2) A record of contract shall be in the prescribed form and shall contain the following particulars:

(a) the name and sex of the employee and his nationality;

(b) the name, address and occupation of the employer;

(c) the date of the employee's engagement and the capacity in which he is to be employed;

(d) the type of contract;

(e) the place of engagement;

(f) the rate of wages and any additional payments in kind;

(g) the intervals of payment.

(3) Every record of contract shall be prepared in duplicate and one copy shall be given to the employee at the time of his engagement (or, in the case of employees engaged before the commencement of this Act, within one month of such commencement) and one copy retained by the employer:

Provided that each copy shall be amended by the employer in the event of any change in the particulars required to be recorded.

(4) An employer who fails-

(a) to prepare or cause to be prepared such record as aforesaid; or

(b) to issue a copy of a record of contract to the employee concerned;

shall be guilty of an offence.

(5) Where any dispute arises as to the terms and conditions of an oral contract other than a contract for the employment of a casual employee, and the employer fails to produce a record of such contract made in accordance with the provisions of this section, the statement of the employee as to the nature of the terms and conditions shall be receivable as evidence of such terms and conditions unless the employer satisfies the court to the contrary.

(As amended by Act No. 15 of 1997)

25. (1) Wherever an employer shall dismiss an employee summarily and without due notice or payment of wages in lieu of notice, such employer shall, within four days of such dismissal, deliver to a labour officer in the District in which the employee was working, a written report of the circumstances leading to, and the reasons for, such dismissal: Summary dismissal

Provided that a report delivered through the post shall be deemed to have been delivered to a labour officer within four days of such dismissal if the envelope within which it is contained bears a postmark dated not later than three days following such dismissal.

(2) A labour officer shall cause to be entered in a register maintained for the purpose, details of every report delivered to him for the purposes of subsection (1).

26. Where an employee is summarily dismissed, he shall be paid on dismissal the wages and other working or other allowances due to him up to the date of such dismissal.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997) Right to wages on dismissal for lawful cause

26A. An employer shall not terminate the service of an employee on grounds related to the conduct or performance of an employee without affording the employee an opportunity to be heard on the charges laid against him.

(As amended by Act No. 15 of 1997) Termination on grounds related to conduct or performance

26B. (1) The contract of service of an employee shall be deemed to have been terminated by reason of redundancy if the termination is wholly or in part due to- Termination by redundancy

(a) the employer ceasing or intending to cease to carry on the business by virtue of which the employee was engaged; or

(b) the business ceasing or reducing the requirement for the employees to carry out work of a particular kind in the place where the employee was engaged and the business remains a viable going concern.

(2) Whenever an employer intends to terminate a contract of employment for reasons of redundancy, the employer shall-

(a) provide notice of not less than thirty days to the representative of the employee on the impending redundancies and inform the representative on the number of employees to be

affected and the period within which the termination is intended to be carried out;

(b) afford the representatives of the employee an opportunity for consultations on-

(i) the measures to be taken to minimise the terminations and the adverse effects on the employees;

(ii) the measures to be taken to mitigate the adverse effects on the employees concerned including finding alternative employment for the affected employees;

(c) not less than sixty days prior to effecting the termination, notify the proper officer of the impending terminations by reason of redundancy and submit to that officer information on-

(i) the reasons for the termination by redundancy;

(ii) the number of categories of employees likely to be affected;

(iii) the period within which the redundancies are to be affected; and

(iv) the nature of the redundancy package.

(3) An employee whose contract of service has been terminated by reason of redundancy shall-

(a) be entitled to such redundancy payment as agreed by the parties or as determined by the Minister, whichever is the greater; and

(b) be paid the redundancy benefits not later than the last day of duty of the employee:

Provided that where an employer is unable to pay the redundancy benefits on the last day of duty of the employee, the employer shall continue to pay the employee full wages until the redundancy benefits are paid.

(4) The provisions of this section shall not apply to-

(a) an employer who ceases to carry on business by reason of bankruptcy or compulsory liquidation;

(b) a casual employee;

(c) an employee engaged for a fixed term and the redundancy coincides with the expiration of that term;

(d) an employee on probation; or

(e) an employee who has been offered alternative employment and who has unreasonably refused the offer.

(As amended by Act No. 15 1997)

27. (1) Any employer who fails to comply with any of the provisions of section twenty-five shall be guilty of an offence. Offence

(2) In any prosecution under this section the production of a register maintained in pursuance

of the provisions of subsection (2) of section twenty-five shall be prima facie evidence of the contents thereof, and, where it is alleged that an employer has failed to deliver a report under the said last-mentioned section, of that fact if there is no entry in the register relating to the delivery of such report.

PART V

WRITTEN CONTRACTS OF SERVICE

28. (1) When a contract of service- Contracts required to be in writing

(a) is made for a period of or exceeding six months or for a number of working days equivalent to six months or more; or

(b) is a contract of foreign service; or

(c) is to perform personally some specific work which could not reasonably be expected to be completed within six months or within a number of working days equivalent to six months from the start of the work;

the contract shall be made in writing.

(2) Any employee shall indicate his consent to a contract of service either-

(a) by signing the same; or

(b) by affixing thereto the impression of his thumb or finger in the presence of a person other than his employer.

(3) An employer who is a party to a contract of service to which subsection (1) applies shall be responsible for causing the contract to be drawn up in writing and presented for attestation under the provisions of section twenty-nine.

(As amended by Act No. 15 1997)

29. Subject to the provisions of subsection (3) of section thirty-two, a written contract of service made under the provisions of this Act shall not be enforceable unless it bears an attestation under the hand of a proper officer to the effect that such contract was read over and explained to the employee in the presence of such officer and was entered into by the employee voluntarily and with the full understanding of its meaning: Attestation

Provided that where the parties to a contract of service which has not been attested in accordance with the provisions of this section are literate and entered into the contract in good faith, such contract shall be enforceable as if it had been attested under this section.

30. A written contract of service shall not be attested by a proper officer unless it specifies as accurately as possible-

(a) the name of the employer and of the employee;

(b) the name of the business or undertaking in which the employee is to be employed;

(c) the place of engagement and, where applicable, the place of origin of the employee and any other particulars necessary for his identification;

- (d) the date of commencement and the duration of the contract of service;
- (e) the place at which, or the geographical limits within which, any work under the contract is to be performed;
- (f) the wages to be paid and, if applicable, particulars of any food to be provided under the contract or of any cash equivalent of any such food;
- (g) an undertaking by the employer to pay the wages of the employee monthly or at shorter period, as the case may be, unless deferment of payment is expressly sanctioned in terms of section forty-eight;
- (h) the nature of the employment, including working hours and tasks where applicable and practical, and the general operations involved and such additional details as may be necessary to make it clear to the employee the nature of the work for which he contracts;
- (i) in the case of a contract of foreign service or contract of service entered into by an employment agency on behalf of an employer with an employee, an undertaking by the employer or employment agency, as the case may be, to provide the employee with sufficient means of subsistence to proceed to the place of employment and to pay the expenses of repatriating the employees as specified in subsection (2) of section thirteen. Contents of written contracts

31. For the avoidance of doubt, it is hereby declared that a written contract of service shall not be binding on the family of an employee. Family of employee not bound by contract

32. (1) Before attesting the signature of any employee to a written contract of service, a proper officer shall satisfy himself that- Duty of proper officer

- (a) the employee has fully understood and freely consented to the contract and that his consent has not been obtained by coercion or undue influence or as a result of misinterpretation or mistake;
- (b) the terms of the contract are not in conflict with the provisions of this Act or any other written law;
- (c) where applicable, the provisions relating to medical examination contained in section thirty-four have been complied with;
- (d) the employee declares himself not to be bound by any previous contract of service;
- (e) the contract is, in all the circumstances, equitable;

and if not so satisfied shall refuse to attest the contract.

(2) A contract of service which requires attestation shall be presented to a proper officer for attestation in triplicate and after attestation thereof one copy shall be given to the employer, one copy to the employee and one copy retained by the proper officer.

(3) If a contract of service is not attested by a proper officer within forty days of the making thereof, the employer shall cease to have any rights under such contract.

(4) An employee who is a party to a contract of service shall, in the case of failure by the employer to present the contract for attestation or refusal of a proper officer to attest the contract, be entitled to the fair value of any service rendered by him to the employer and a labour officer may, on the matter coming to his notice, assess and certify in writing the sum to which any employee is entitled under the provisions of this subsection:

Provided that a court may vary or set aside such certificate of a labour officer and itself assess the fair value of such a service.

(5) Notwithstanding the provisions of subsections (3) and (4), either party to a written contract of service may present the contract for attestation at any time before the expiration of the period for which the contract was made and, if the contract is then attested, it shall have full force and effect in respect of the period to which it relates:

Provided that nothing in this subsection shall entitle any person to present for attestation a contract of service whereof attestation has been previously refused by a proper officer.

(6) An employer who wilfully fails to present for attestation a written contract of service within forty days from the making thereof shall be guilty of an offence and liable to a fine of sixty penalty units for every day during which the default continues.

(As amended by Act No. 13 of 1994)

33. Repealed by Act No. 15 of 1997.

34. (1) Subject to the provisions of subsection (2), every employee who enters into a contract of service under the provisions of section twenty-eight shall be medically examined by a medical officer before such contract is attested; such examination shall have relation to the fitness of the employee to undertake the work which he has contracted to do, and a report of the result of such examination shall be sent by the medical officer to the employer. Medical examination

(2) A proper officer may exempt in writing from the provisions of subsection (1) an employee entering into a written contract of service for employment in the vicinity of his home-

(a) in agricultural work; or

(b) in non-agricultural work which the Labour Commissioner is satisfied is not of a dangerous character or likely to be injurious to the health of the employee.

(3) Notwithstanding the provisions of this section, every employee who enters into a contract of foreign service shall be medically examined by a medical officer and such employee shall not be allowed to depart from Zambia, nor shall his contract be attested, until the report of the result of such examination has been produced to the proper officer concerned.

(4) Every employer who, without reasonable cause, fails to comply with the provisions of this section shall be guilty of an offence.

(As amended by Act No. 15 of 1997)

35. (1) Rights arising under any written contract of service shall not be transferred from one employer to another unless the employee bound by such contract consents to the transfer and

the particulars thereof are endorsed upon the contract by a proper officer. Transfer of contract

(2) Before endorsing any particulars of transfer on a written contract of service, the proper officer shall satisfy himself-

(a) that the employee has fully understood the nature of the transaction and has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as the result of misinterpretation or mistake;

(b) that where there is any change in the nature of the work to be performed or in the place where such work is to be performed, and a medical examination of the employee is desirable, that such employee has been medically examined in accordance with the provisions of section thirty-four.

36. (1) A written contract of service shall be terminated- Termination of contract

(a) by the expiry of the term for which it is expressed to be made; or

(b) by the death of the employee before such expiry; or

(c) in any other manner in which a contract of service may be lawfully terminated or deemed to be terminated whether under the provisions of this Act or otherwise.

(2) Where owing to sickness or accident an employee is unable to fulfill a written contract of service, the contract may be terminated on the report of a registered medical practitioner.

(As amended by Act No. 15 1997)

37. (1) A proper officer may, before attesting a contract of foreign service, require the employer to give security by bond, in such form and in such amount and with one or more sureties resident within Zambia as may be approved by such officer, and such bond shall provide for the due performance of the contract by the employer in such terms as the proper officer may consider reasonable, or in lieu of such bond a proper officer may require such employer to deposit in cash such sum as the officer may think necessary to guarantee such performance. Security in contracts of foreign service

(2) A bond entered into for the purposes of this section shall be enforceable by the proper officer or any labour officer according to its purpose without any assignment and shall be binding as a deed without being sealed.

(3) Any money recovered under a bond shall be applied by the proper officer or any labour officer in or towards satisfaction of the claims of employees employed under the contract in such proportions as the proper officer or labour officer, in his absolute discretion, shall think just; any balance remaining after satisfaction of such claims shall be paid to the employer.

38. (1) When a contract made within Zambia relates to employment in another country (in this section referred to as the "country of employment") and is a contract of foreign service as defined in section three, then the provisions of this Part shall apply in the following manner, that is to say: Foreign contracts of service and contracts made abroad

(a) a person whose age is less than either sixteen years or the minimum age of capacity for

entering into contracts prescribed by the law of the country of employment, whichever is the higher, shall not be capable of entering into such a contract;

(b) the conditions under which the contract is subject to termination shall be determined by the law of the country of employment;

(c) the Labour Commissioner shall co-operate with the appropriate authority of the country of employment to ensure the application of subsection (2) of section fourteen;

(2) When a contract made within another country relates to employment in Zambia, the provisions of this Act shall apply to such contract.

(As amended by Act No. 15 of 1997)

39. Any person who induces or attempts to induce any other person to proceed beyond Zambia for the purpose of employment outside Zambia otherwise than in accordance with the provisions of this Act, or any person who knowingly aids in the employment or transfer of any person so induced, shall be guilty of an offence and liable to a fine not exceeding four thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(As amended by No. 28 of 1971 and Act No.13 of 1994) Inducing persons to proceed abroad without a contract of foreign service

40. For the avoidance of doubt, it is hereby declared that nothing in the foregoing provisions of this Part shall be construed as prohibiting or restricting an employee who has completed a written contract of service, other than a contract of foreign service, from continuing in the service of his employer under an oral contract of service. Continued employment under oral contract

PART VI

HOUSING AND WELFARE

41. An employer may, as agreed under-

(a) a collective agreement registered under the Industrial and Labour Relations Act;

(b) a contract of employment;

(c) the general conditions of service of that institution or organisation;

provide to an employee either housing, a loan or advance towards the purchase or construction of a house, guarantee facility for a mortgage or house loan on behalf of an employee or pay housing allowance.

(As amended by Act No. 15 of 1997) Housing of employees

Cap. 269

42. (1) Every employer shall ensure that there is at the place of employment an adequate supply of drinking water for the use of his employees. Water for use of employees

(2) Wherever, in the opinion of a medical officer, the supply of water referred to in subsection (1) is inadequate or not reasonably protected or accessible for use, a proper officer may cause

to be served on the employer an order in writing requiring him to remedy the defect within such reasonable time as may be specified in such order.

(3) Any person who fails to comply with the provisions of this section or with an order served under subsection (3) shall be guilty of an offence. [The Employment Act](#)

(As amended by Act No. 15 of 1997)

43. (1) An employer may as agreed under- Medical attention

(a) a collective agreement registered under the Industrial and Labour Relations Act; Cap. 269

(b) a contract of employment; or

(c) the general conditions of service relating to that organisation or institution;

provide an employee with medical attention and medicines and where necessary, transport to a medical institution during the illness of the employee:

(2) Notwithstanding the foregoing provisions of this section, any incapacity falling within the provisions of any law relating to worker's compensation shall be subject to the provisions of such law.

(As amended by Act No. 15 of 1997)

PART VII

PROTECTION OF WAGES

44. (1) In all contracts of service the wages of an employee shall be payable in the currency of the Republic and shall be paid direct to the employee: Wages to be paid to employee in currency of Republic

Provided that if the employee so requests in writing, or if the provisions of any collective agreement applicable to such employee so provide, payment may be made in any of the following ways:

(a) payment into an account at a bank or building society, being an account standing in the name of the person to whom the payment is due, or an account standing in the name of that person jointly with one or more other persons;

(b) payment by postal order;

(c) payment by money order;

(d) payment by cheque:

Provided further, that an employer may, in the absence of an employee, pay the wages of such employee to a person other than the employee if such person is duly authorised to receive such wages by the employee in writing.

(2) Wherever possible, wages shall be paid on work days and at or near the place of employment.

(3) Nothing contained in this section shall prevent an employer from paying to an employee, in addition to wages, allowances in kind, where such payment is customary or agreed to by the employee or provided for in a collective agreement or in accordance with any written law:

Provided that any such payment, being an allowance in kind, shall be for the personal use and benefit of the employee, and his family, and shall not be in the form of intoxicating spirits or noxious drugs.

(4) Payment of wages shall not be made in any shop, store or canteen or in places where intoxicating liquor is sold, except in the case of employees employed to work therein.

(5) The provisions of this section shall be subject to any law relating to exchange control.

(6) The provisions of this section shall apply also to a casual employee.

(As amended by No. 28 of 1971)

45. (1) Notwithstanding any other provisions of this Act, an employer may make deductions from the wages payable to an employee in respect of- Authorised deductions

(a) except where otherwise provided in any other written law, contributions to any provident, medical or pension fund or any other fund or scheme approved by the Minister to which the employee has agreed in writing to contribute;

(b) a reasonable amount for any damage done to, or loss of, any property lawfully in the possession or custody of any employer occasioned by the wilful default of the employee, if such amount and its deduction are duly accepted in writing by such employee;

(c) any amount paid to an employee in error as wages in excess of the amount of wages due to him;

(d) subject to the written consent of the employee, an amount equal to any shortage of money arising through the negligence or dishonesty, not amounting to a criminal offence, of an employee whose contract of service provides specifically for his being entrusted with the receipt, custody and payment of money;

(e) any amount agreed in repayment of a loan made by the employer to the employee, at his request, for a purpose beneficial to him under the terms of a collective agreement applicable to such employee;

(f) such other amounts as may be prescribed by the Minister by statutory instrument.

(2) Any deductions made by an employer in respect of a contribution to any provident, medical or pension fund or any fund or scheme approved by the Minister shall be paid as soon as is reasonably practicable by the employer to the person or fund entitled to receive it.

(3) Notwithstanding the provisions of subsection (1), an employer shall, whether the employee consents to the deduction or not, deduct from the wages of such employee any amount which such employer is required or empowered to deduct from such wages under any written law.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997)

46. Repealed by Act No. 15 of 1997.

46A. Repealed by Act No. 15 of 1997.

47. An employer shall not make any deductions from wages payable to an employee or any amount paid to such employee as an advance of wages in consideration of, or as a reward for, providing employment for such employee or for retaining such employee in employment.

Unauthorised deductions

48. (1) Subject to the provisions of subsection (3) and (4), the wages of an employee shall be due- Wages, when due and payable

(a) in the case of a contract of service from month to month, on the last day of each month;

(b) in the case of a contract of service from fortnight to fortnight, on the last day of each fortnight;

(c) in the case of a contract of service from week to week, on the last day of each week;

(d) in the case of an employee employed on a task or piece work, on the completion of such task or work:

Provided that where an employee is employed on piece work, it shall be lawful for an employer, with the consent of such employee, to accumulate the wages due to the employee for such period not exceeding one month as may be agreed by the parties;

(e) in the case of an employee employed to perform a journey, on the completion of such journey;

(f) in any other case, in accordance with the terms of the contract of service.

(2) The wages of an employee shall be paid at regular intervals not being later than the fifth day following the date upon which they fall due under subsection (1).

(3) Notwithstanding the provisions of subsection (2), in the case of an employee who is engaged on a contract of service for payment of wages at a daily or an hourly rate, it shall be lawful for the employer to accumulate such wages for a period not exceeding one month provided the agreement of the employee concerned has been obtained:

Provided that the provisions of this subsection shall be subject to the right of the employee to payment on demand of any accumulated wages due to him in the event of the contract of service being terminated by either party thereto.

(4) In every case in which employment under a contract of service is lawfully terminated, all wages including overtime pay and allowances additional to basic pay shall be payable on the day upon which such contract terminates.

(5) The provisions of subsections (1), (2) and (3) shall not apply to the payment of any allowance or bonus where such allowance or bonus does not form part of any payment due under the contract of service.

49. (1) An employer shall not limit or attempt to limit the right of an employee to dispose of his wages in any manner which he deems fit. Disposal of wages

(2) Nothing in this Part shall prevent an employer, otherwise lawfully entitled so to do, from establishing a shop for the sale of provisions generally to his employees, but no employee shall be compelled by any contract, collective agreement or order, written or oral, to purchase provisions at such shop.

50. Every employer shall keep a record of the wages paid to each of his employees or casual employees and of every deduction from such wages and the reason therefor, which record shall be kept at the place of employment or at such other place as the Minister may in any particular case approve and shall, at all reasonable hours, be available for inspection by a proper officer.

(As amended by No. 28 of 1971) Record of wage payments to be kept by employer

51. Every employer shall, before an employee commences employment or when changes in the nature of such employment take place, cause to be explained to such employee the rate of wages and conditions relating to such payment. Explanation of wages and conditions of employment

52. Every employer shall display at a conspicuous place readily accessible to all his employees such details of the provisions of this Part as may be prescribed. Provisions to be displayed

53. Wages shall not become payable to any employee in respect of any period during which the employee is imprisoned under any law or otherwise detained in lawful custody. Wages not to accrue during imprisonment

54. (1) Except as may be provided in any contract of service, collective agreement or other written law more favourable to the employee, if any employee becomes temporarily incapacitated in consequence of sickness or accident not occasioned by his own default, such employee shall, provided he has produced a valid medical certificate, receive pay for the days absent up to a maximum of twenty-six working days in any period of twelve months: Wages while incapacitated

Provided that an employer may continue to pay such employee for any longer period if the employer so agrees.

(2) In addition to the leave prescribed in subsection (1), every female employee shall be entitled to one day's absence from work each month without having to produce a valid medical certificate.

(3) Notwithstanding anything in this section hereinbefore contained, any wages payable to an employee under the provisions of this section shall be reduced by the amount of any compensation received by such employee during such period of incapacity under any law relating to worker's compensation.

(4) Subject to the provisions of any other written law, unless otherwise agreed between the parties thereto, a contract of service shall not be terminated while any of the provisions of this section apply.

(As amended by Acts No. 28 of 1971 and No. 15 of 1997)

55. Any person who-

(a) employs or continues in his employment any employee or casual employee without intending to pay, or without having reasonable grounds for believing that he can pay, the wages of such employee or casual employee as they become payable;

(b) without reasonable excuse fails on demand to pay in accordance with the provisions of section forty-eight any wages due to any employee or casual employee;

(c) makes any deductions from wages other than those authorised in this Part;

(d) by any act or omission contravenes any other provisions of this Part;

shall be guilty of an offence.

(As amended by No. 28 of 1971) Offences

PART VIII

EMPLOYMENT AGENCIES

56. (1) A person shall not operate or cause to be operated any employment agency except under licence from the Labour Commissioner. Employment agencies to be licensed

(2) An application for the grant or renewal of a licence shall be made to the Labour Commissioner in such form as may be prescribed and the Labour Commissioner may, on receipt of such application, grant or renew a licence subject to such terms and conditions as he may consider necessary.

57. (1) On receipt of an application to grant or renew a licence, the Labour Commissioner may, in his discretion, either grant or renew or refuse to grant or renew the licence and may suspend or cancel any licence issued under this section: Labour Commissioner may refuse licence

Provided that the Labour Commissioner shall inform the person-

(i) whose application for the grant or renewal of a licence has been refused, or whose licence has been suspended or cancelled, of the reasons for such refusal, suspension or cancellation, as the case may be;

(ii) whose application for the grant or renewal of a licence is to be granted subject to such terms and conditions as he may consider necessary, of the reason for the imposition of such terms and conditions.

(2) Any person who-

(a) being an applicant for the grant or renewal of a licence, is aggrieved by the decision of the Labour Commissioner; or

(b) being the holder of a licence, is aggrieved by any suspension or cancellation thereof;

may, within thirty days of being notified of the Labour Commissioner's decision, appeal to the court and the court, in deciding the appeal, shall have and may exercise the same powers and

discretions as the Labour Commissioner.

(3) A licence issued under the provisions of this section shall continue in force until the 31st December next following the date of issue thereof.

(4) Upon making an application for the grant or renewal of a licence, the applicant shall pay such fee as may be prescribed and such fee shall accompany the application:

Provided that where a licence is granted in respect of any period after the 30th June in any year the fee in respect of such licence shall be one-half of the fee so prescribed.

(5) Where it is shown to the satisfaction of the Labour Commissioner that a licence already issued has been lost or destroyed, the Labour Commissioner shall, subject to the provisions of section fifty-eight, and upon payment of a fee of fifteen fee units, issue a duplicate of such licence to the licence holder.

(As amended by Act Nos. 13 and 28 of 1994)

58. Repealed by Act No. 28 of 1994.

59. (1) An employment agency shall charge a prospective employer such fees as may be agreed between them. Fees

(2) The employment agency shall not charge the prospective employee for any services rendered.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence.

(As amended by Act No. 28 of 1994)

60. Every employment agency shall keep or cause to be kept such registers and records and shall submit to the Labour Commissioner such returns as may be prescribed. Keeping of registers and submission of returns

61. Any employment agency-

(a) knowingly deceiving any person by giving false information; or

(b) making or causing to be made or knowingly allowing to be made any register, record or return which is false in any material particular;

shall be guilty of an offence.

(As amended by Act No. 15 of 1997) Offences by employment agencies

62. Any person operating as an employment agency except under licence from the Labour Commissioner shall be guilty of an offence. Offence to operate as employment agency without a licence

63. Any person who engages in or assists a person engaged in recruiting persons as an employment agency without a licence shall be guilty of an offence and on conviction shall be liable to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding two years, or to both. Offence to recruit or to assist in recruiting

(As amended by Acts No. 13 of 1994 and No. 15 of 1997)

PART IX

DISPUTES AND BREACHES OF CONTRACT

64. (1) Subject to the provisions of subsection (2), whenever an employer or employee neglects or refuses to comply with the terms of any contract of service, or whenever any question, difference or dispute arises as to the rights or liabilities of any party to such contract or as to any misconduct, neglect or ill-treatment of any such party, or concerning any injury to the person or property of such party, the party aggrieved may report the matter to a labour officer, who shall thereupon take such steps as may seem to him to be expedient to effect a settlement between the parties and, in particular, shall encourage the use of collective bargaining facilities where applicable. Disputes to be referred to a labour officer

(2) The provisions of this section shall not apply where, by or under any law, the matters referred to in subsection (1) may or are required to be settled in the manner provided in such law.

(As amended by Act No. 15 of 1997)

65. Wherever, upon a report made to him under the provisions of section sixty-four, a labour officer considers that a breach of the provisions of this Act has been disclosed, he may refer the matter to a court. Powers of labour officer in respect of offences

66. In any civil proceedings by or against any person under the provisions of this Act, the court may, by order on the application of any party, dispense with the attendance before it to give evidence of any party or witness to such proceedings if the court is satisfied that such proceedings can be properly heard and determined without the presence of such party or witness, and for such purpose the court may receive the sworn statement of any such party or witness: Personal attendance at court may be dispensed with

Provided that a court shall not make an order dispensing with the attendance of a witness where it appears to the court that any party bona fide desires the attendance of such witness for cross-examination and that such witness can be produced.

67. If, at the time of the making of any complaint in respect of an offence under this Act, or at any time thereafter, a Court is satisfied by evidence on oath that the party complained against is likely to abscond, the Court may cause such party to be arrested and detained in custody until the hearing of the proceedings or until such party finds security to appear and answer the complaint. Arrest of absconding defendant

68. Save as is otherwise provided in this Act, the provisions of the law for the time being in force relating to procedure in criminal cases respecting appeals and references, and the levying of moneys ordered to be paid, shall apply to all proceedings and all orders for the payment of money under this Act. Procedure to be applied to proceedings under this Act

69. Whenever any question arises as to the age of an employee and no sufficient evidence is available as to his age, a medical officer may estimate his age by his appearance or from any information available, and the age so estimated shall, for the purposes of this Act, and unless and until the contrary be proved, be deemed to be his true age. Determination of age

PART X

POWERS OF COURTS AND OFFENCES

70. (1) Notwithstanding the provisions of any other law, a court to which any matter is referred under the provisions of section sixty-five shall have jurisdiction- Powers of courts

- (a) to adjust and set off one against the other all such claims on the part of the employer or of the employee arising out of or incidental to the contract of service as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and for wages, damage to person or property or for any other cause, and to direct the payment of such sum as it finds due by one party to the other party;
- (b) to terminate a contract of service upon such terms as to the payment of damages and otherwise as it thinks fit;
- (c) to impose any punishment or penalty to which any person is liable under the provisions of this Act;
- (d) to assess the fair value of services rendered by an employee in any case in which such services are to be assessed in accordance with the provisions of this Act, or in any case where the rate of wages or other benefits to which an employee should be entitled have not been agreed between the employer and employee or it is uncertain what was agreed;
- (e) to decide the relative rights and duties of employers and employees in relation to any matter referred to the court under the provisions of this Act;
- (f) to fix the amount of compensation for loss of or damage to the property of an employer where such loss has been occasioned by the wrongful act or omission of his employees;
- (g) to award damages for wrongful dismissal; and
- (h) to order reinstatement or re-employment.

(2) Any security required under the provisions of this section shall be given by a written acknowledgment in or under the direction of the court of the undertaking or condition by which, and the sums for which, the person giving such security is bound, and such security may be forfeited and enforced in the manner provided for the forfeiture and enforcement of bonds under the law for the time being in force.

(As amended by Act No. 15 of 1997)

71. Where any person is convicted of an offence under this Act and it appears from the evidence that any employer or employee has suffered material loss or personal injury in consequence of the offence committed, the court may, in addition to any other lawful punishment imposed by it, order such person to pay to such employer or employee, as the case may be, such compensation in respect of such material loss or personal injury as it may deem fair and reasonable in every respect as if it were compensation ordered to be paid under section one hundred and seventy-five of the Criminal Procedure Code. Court may order payment of compensation

Cap. 88

72. If any employer or employee prefers any groundless charge against the other or is convicted of any assault against the other, the court may, if it deems fit, on the application of the party against whom such charge was preferred or who was assaulted, as the case may be, order the

termination of the contract of service and the same shall thereupon terminate without prejudice to any rights which may have accrued thereunder to either party thereto. Cancellation of contract

73. No employee who has not attained the age of sixteen years shall be subject to any of the penal provisions of this Act. Employees under sixteen not subject to penal provisions

74. If, in any legal proceedings, it does not clearly appear what rate of wages or benefits was agreed upon between an employer and an employee, the court shall fix the rate of wages or benefits at that usually paid or given for the type of service concerned in the area in which the contract of service was to be performed. Assessment of wages, etc.

75. Any person who-

(a) induces or attempts to induce any person to engage himself for employment, or engages or attempts to engage any person by means of any force, threat, intimidation, misrepresentation or false pretence; or

(b) induces, or employs or instigates any other person to induce, any employee to quit the service of his employer in breach of his contract of service, unless the act tending to such inducement is lawful under the provisions of the Labour and Industrial Relations Act; or

(c) forges or counterfeits or utters any testimonial, reference or other certificate of the character of an employee, or falsely personates any person and as such either verbally or in writing gives a false, forged or counterfeit character of any other person offering or intending to offer himself to hire as an employee; or

(d) offers himself to hire as an employee and asserts or pretends that he has served in a service in which he has not actually served, or engages, or attempts to engage, himself as an employee by means of a false, forged or counterfeit testimonial, reference or other certificate of character, or by means of a genuine testimonial, reference or other certificate of character which has been fraudulently altered or added to either by himself or with his knowledge; or

(e) by force, in any way prevents or endeavours to prevent any person from hiring himself as an employee or from accepting work from any employer;

shall be guilty of an offence. Offences

Cap. 269

76. Any employer who before or after the expiration of a contract of service, upon demand made by a proper officer, refuses to deliver or permit to be taken away any property belonging to any employee lawfully being or remaining upon the premises of such employer, without reasonable and probable cause for believing that the property in question was lawfully detained, shall be guilty of an offence. Offences by employers

77. Any person guilty of an offence under this Act for which no other penalty is provided shall

be liable to a fine not exceeding two thousand penalty units or to imprisonment for a period not exceeding six months, or to both and, in the case of a continuing offence, to an additional fine not exceeding two hundred penalty units in respect of each day during which such offence continues. General penalty

(As amended by Act No. 13 of 1994)

PART XI

MISCELLANEOUS

78. (1) Every contract of service entered into before the commencement of this Act in accordance with the Employment of Natives Act, Chapter 171 of the 1964 Edition of the Laws, shall, in so far as not inconsistent with the provisions of this Act, be deemed to be a contract of service entered into under the provisions of this Act. Contracts made before commencement of Act and foreign contracts

(2) Any written contract of service entered into under the law for the time being in force in any other country, attested by a government officer of such country and performed within Zambia, shall be deemed to have been entered into under the provisions of this Act, and the said provisions shall, as far as is practicable, apply to such contract in relation to its performance in Zambia.

79. (1) Notwithstanding the provisions of subsection (2), every employer shall, on the termination of a contract of service between such employer and his employee, give to such employee a certificate of service which shall contain- Certificate of service, testimonials and references

(a) the name of the employer;

(b) the name of the employee;

(c) the date of engagement;

(d) the date of discharge;

(e) the nature of employment;

(f) the employer's account number with the Zambia National Provident Fund under which statutory contributions have been or will be remitted to the said Fund on behalf of the employee;

(g) the employee's national registration number and membership number in the Zambia National Provident Fund; and

(h) with effect from the 1st April, 1976, a statement showing the amount of statutory contributions and any supplementary contributions paid by the employer to the Zambia National Provident Fund during the course of such contract.

(2) An employer shall not be bound to give a testimonial, reference or certificate of character to any employee at the termination of his service, but any employer who knowingly gives a false

testimonial, reference or certificate of character to any employee shall be liable for any loss or damage caused thereby to any third person who, by reason thereof, has been induced to take such employee into his service.

(3) Any person who fails to give a certificate of service as required by subsection (1) shall be guilty of an offence.

(As amended by Act No. 29 of 1975)

80. (1) The Minister may, by statutory instrument, make regulations for the better carrying into effect of this Act, and, in particular and without prejudice to the generality of the foregoing power, such regulations may be made for the purpose of- Regulations

(a) prescribing the fees and remunerations to be charged under any provisions of this Act;

(b) prescribing the duties of labour officers and the form of identification documents to be issued to such officers;

(c) prescribing the books, registers, accounts and other documents to be kept by employers with regard to the employment of and the wages paid to employees and providing for the inspection thereof;

(d) prescribing the particulars to be included in written contracts of service;

(e) providing for further particulars to be recorded in a record of oral contract and for all other matters relating to the making and cancellation of such records;

(f) providing for the classification of employees and the application to any class of employees of all or any regulations made under this section;

(g) prescribing the details of notices to be displayed in terms of section fifty-two;

(h) prescribing the forms to be used for the purposes of this Act;

(i) requiring returns and statistics to be furnished by employers in respect of employees;

(j) prescribing the manner and form in which application shall be made for any licences issued under the provisions of this Act, the particulars to be furnished in every such application, the conditions subject to which any such licence may be issued and the form of such licence;

(k) prescribing for the purpose of the classes of recruiting operations referred to in the proviso to the definition of "recruiting"-

(i) the limited number of employees who may be recruited by or on behalf of employers; and

(ii) a limited radius from a place of employment;

(l) prescribing anything which by this Act is to be or may be prescribed.

(2) Regulations made under the provisions of this section may provide for the imposition of penalties, not exceeding those laid down in section seventy-seven.

(3) Regulations made under this section may make different provisions with respect to-

- (a) different areas of Zambia;
- (b) different trades, industries or employment or classes thereof;
- (c) different classes of persons.

(As amended by Act No. 15 of 1997)

81. Repealed by Act No. 8 of 1992.

SUBSIDIARY LEGISLATION Statutory Instrument

343 of 1970

SECTION 2-THE TANZANIA-ZAMBIA RAILWAY AUTHORITY (EXEMPTION) ORDER

Order by the Minister

1. This Order may be cited as the Tanzania-Zambia Railway Authority (Exemption) Order. Title
2. Exemption is hereby granted to the Tanzania-Zambia Railway Authority from the operation of the following provisions of the Act:

- (a) the provisions of Part V requiring contracts of foreign service to be in writing, and dealing with written contracts of foreign service;
- (b) the provisions of section thirty-nine. Exemption

SECTION 15-PAID PUBLIC HOLIDAYS

Order by the Minister Statutory Instrument

425 of 1968

It is hereby declared that Labour Day and Independence Day in each year shall be paid public holidays.

THE EMPLOYMENT REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Labour officer's certificate of appointment
3. Record of oral contract
4. Attestation fee
5. Adequate housing
6. Revoked by S.I. No. 140 of 1993

7. Revoked by S.I. No. 140 of 1993
 8. Revoked by S.I. No. 140 of 1993
 9. Employment agency to be licensed
 10. Application for renewal of licence
 11. Licence fee
 12. Form of licence
 13. Keeping of records
 14. Returns required by Labour Commissioner
 15. Maximum fees to be charged by employment agency
 16. Production of registers and records
 17. Offences
- FIRST SCHEDULE-Prescribed forms
- SECOND SCHEDULE-Prescribed minimum standards for housing
- SECTION 80-THE EMPLOYMENT REGULATIONS
- Regulations by the Minister Statutory Instruments
- 370 of 1966
- 222 of 1967
- 124 of 1973
- 46 of 1974
- 214 of 1979
- 136 of 1981
- 61 of 1990
- 66 of 1990
- 123 of 1990
- 140 of 1993
- Act No. 13 of 1994
1. These Regulations may be cited as the Employment Regulations. Title

2. A certificate of appointment or authority to be issued to a labour officer under section ten of the Act, shall be in the Form 1 set out in the First Schedule. Labour officer's certificate of appointment

3. Every record of an oral contract of service required under the provisions of section twenty-four of the Act shall be in Form 2 set out in the First Schedule. Record of oral contract

4. (1) Upon the attestation of any contract of foreign service, the employer, or his authorised agent, shall pay to the Government an attestation fee in respect of each person so engaged at the rate of one fee unit for every month, or part thereof, during which the said contract is to endure. Attestation fee

(2) Where the parties to an intended contract of foreign service require a proper officer to attest the contract, they shall, either together or severally, give reasonable notice of such intention to a proper officer; and such proper officer shall satisfy himself that the said contract is in proper form and complies with the Act, and with any written law relating to immigration.

(As amended by S.I. No. 66 of 1990)

5. Adequate housing required to be provided under section forty-one of the Act shall be housing which complies with the appropriate standards prescribed in Parts I, II and III of the Second Schedule. Adequate housing

6. Revoked by S.I. No 140 of 1993.

7. Revoked by S.I. No 140 of 1993.

8. Revoked by S.I. No 140 of 1993.

9. An application for the grant of a licence to operate an employment agency shall be in the Form 3 in the First Schedule. Employment agency to be licensed

10. Application for the renewal of a licence to operate an employment agency shall be made not less than six weeks prior to the date of expiry of the current licence, in the Form 4 in the First Schedule. Application for renewal of licence

11. For the issue or renewal of a licence to operate an employment agency the fee shall be one hundred and fifty fee units.

(As amended by S.I. No. 66 of 1990 and Act No. 13 of 1994) Licence fee

12. (1) Every licence to operate an employment agency shall be in the Form 5 in the First Schedule. Form of licence

(2) Every employment agency or branch thereof shall have a licence managing its operations, and no licence shall be transferred and a person shall not use or attempt to use a licence issued to any other person.

13. Every employment agency shall keep or cause to be kept-

(a) adequate and proper registers showing- Keeping of records

(i) the full names of all applicants seeking employment registered with the agency;

- (ii) the occupation of each applicant;
 - (iii) the manner and form of assistance afforded by the agency to the applicant
- (b) records of the operation of the undertaking showing-
- (i) existing vacancies notified to the agency;
 - (ii) placings in employment made by or with the assistance of the agency;
 - (iii) the fees charged by the agency and particulars of fees actually paid by the applicants.

14. Every employment agency shall submit to the Labour Commissioner within seven days from the end of every calendar month a return of operations in the Form 6 in the First Schedule.
Returns required by Labour Commissioner

15. An employment agency shall not charge or receive fees in excess of the following scales:

- (a) where employers notify a vacancy: eight fee units in respect of each vacancy filled by an employee introduced by the agency;
- (b) in the case of applicants: two fee units initial registration fee and up to five per centum of the applicant's first month's earnings in the event of being placed in employment by the agency.

(As amended by S.I. No. 66 of 1990 and Act No. 13 of 1994) Maximum fees to be charged by employment agency

16. Every employment agency shall produce the registers and records prescribed by these Regulations for inspection when required to do so by a proper officer. Production of registers and records

17. An employment agency which-

- (a) fails or neglects to maintain or cause to be maintained adequate and proper registers and records required under regulation 13; or
- (b) charges or receives fees in excess of those prescribed by regulation 15;

shall be guilty of an offence and shall be liable to a fine not exceeding eight penalty units.

(As amended by S.I. No. 66 of 1990 and Act No. 13 of 1994) Offences

FIRST SCHEDULE

PRESCRIBED FORMS

FORM 1

(Regulation 2)

REPUBLIC OF ZAMBIA

THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS

CERTIFICATE OF APPOINTMENT OR AUTHORITY

No.....ZAMBIA LABOUR DEPARTMENT

This is to certify that is employed in the Labour Department or has been authorised to act in the Labour Department as a.....with effect from.....

.....

Labour Commissioner

Date.....

(SPACE FOR PHOTOGRAPH OF HOLDER)

.....

Signature of Holder

(This card must be handed in on discharge)

FORM 2

(Regulation 3)

THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS

RECORD OF ORAL CONTRACT OF SERVICE

- 1. Name of Employer.....
- 2. Address of Employer.....
- 3. Employer's occupation.....

PARTICULARS OF EMPLOYEE

Name

Sex

Nationality Date and place

of engagement Capacity in

which employed

Amount of Type of contract

housing (e.g. daily, Rate of wages Additional allowance weekly, monthly, (per hour, per Intervals at payment in where as the case week, per day, which wages kind (give (applicable) may be) or per month) are paid details here)

Signature of Employer..... Signature of Employee.....

Notes: (i) This form must be prepared in duplicate, one copy to be handed to the employee, the other to be retained by the employer;

(ii) Space is provided on the reserve side of the form for subsequent changes in the employee's conditions of service or rate of pay. The employer must ensure that all such changes are duly recorded on both copies of the record.

[Reverse]

Details of Changes in Employee's Conditions of Service or Rate of Pay

Additional pay- Intervals at

Effective Type of Rate of ment in kind which wages

date contract wages (give details) are paid

(As amended by S.I. No. 136 of 1981)

REPUBLIC OF ZAMBIA

FORM 3

(Regulation 9)

THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS

APPLICATION FOR ISSUE OF AN EMPLOYMENT AGENCY LICENCE

PART I

PARTICULARS OF APPLICANT

1. (a) Name (in full)

(b) Address Tel. No.....

2. Nationality

3. Occupation.....

4. Salary

5. Give details of any qualification and/or experience which may be relevant to this application

.....
.....

6. Have you ever been convicted of any criminal offence?

Give details

7. Give names and addresses of two referees in the district in which the applicant resides:

(1)

.....

(2)

.....

8. This application is made by me in my capacity as an employee of (state name and address of agency):

.....

.....

PART II

PARTICULARS OF AGENCY

09. Give particulars of-

(a) any previous operation of an employment agency and details of any previous employment agency licence granted.....

.....

.....

(b) location and size of premises from which the agency is to operate

.....

.....

(c) the major occupational groups for which it is proposed to provide service

.....

.....

10. State fees to be charged applicants seeking employment registering with the agency

.....

 11. Give particulars of financial security.....

Applicant
 Date.....

REPUBLIC OF ZAMBIA
 FORM 4
 (Regulation 10)
 THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS
 APPLICATION FOR RENEWAL OF AN EMPLOYMENT AGENCY LICENCE

1. (a) Name in full of applicant.....
 (b) Address Tel. No.....

2. Nationality

3. Occupation.....

4. Salary

5. Name and address of agency.....

06. Give the number of the previous licence issued

07. Give details of any changes since the previous application for a licence in-

(i) qualifications and/or experience of the licensee;
 (ii) location and size of premises from which the agency is to operate;
 (iii) the major occupational groups for which it is proposed to provide service:

08. State the amount of fees which it is proposed to charge applicants seeking employment registering with the agency:

.....

Applicant

Date.....

REPUBLIC OF ZAMBIA

FORM 5

(Regulation 12)

THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS

Office of the Labour Commissioner, Lusaka.

No..... 19.....

EMPLOYMENT AGENCY LICENCE

LICENCE is hereby granted to.....

of.....

to operate an employment agency called.....

situated at

from the.....day of....., 19.....

to the.....day of....., 19.....

This licence is issued subject to the provisions of the Employment Act and the Employment Regulations made thereunder and to the following conditions

.....
.....
.....
.....
.....

Labour Commissioner

REPUBLIC OF ZAMBIA

FORM 6

(Regulation 14)

THE EMPLOYMENT ACT

THE EMPLOYMENT REGULATIONS

MONTHLY RETURN BY LICENSED EMPLOYMENT AGENCY

Name and address of licensee

Name of agency

District covered by the return

For the month of....., 19.....

Persons on

register at Vacancies Vacancies

Registrations the end of notified filled

Occupation during month month during month during month

Males:

Females:

Licensee

Date.....

SECOND SCHEDULE

(Regulation 5)

PRESCRIBED MINIMUM STANDARDS FOR HOUSING

PART I

REQUIREMENTS FOR PERMANENT BUILDINGS

1. Walls of permanent buildings may be constructed of burnt brick or stone or concrete. Permanent buildings shall only be constructed upon foundations of cement, concrete or brickwork in cement mortar.

2. (1) The roof shall be constructed of non-inflammable material.

(2) Where a "shed" or "lean-to" roof is used, the minimum height of any wall from floor level shall be as follows:

(a) where the roofing is iron-2.70 m;

- (b) where the roofing material is concrete of not less than 7.50 cm thickness-2.50 m;
 - (c) where the roofing material is asbestos cement of not less than 6 mm in thickness-2.50 m;
 - (d) where the roofing material is any other substance-such height as may be prescribed by the Labour Commissioner.
- (3) Where a gable roof inclined at not less than 30 degrees to the horizontal is used, the height of any wall from floor level may be reduced to 2.10 m;
- (4) (a) Walls shall be painted or plastered externally with lime or cement mortar or other material approved by the Labour Commissioner.
- (b) The internal surfaces of walls up to a height of not less than 25 cm from the floor shall be smoothly plastered with hard cement plaster or other impervious material approved by the Labour Commissioner and the remainder of the internal surface of all walls shall be covered by a smooth plaster of lime or cement.
3. The floor space of any room used for sleeping purposes shall not be less than 4.20 sq m for each person occupying the room.
4. Every room shall have a window or windows of a total area of not less than one-tenth of the floor area and sufficient ventilation by two or three ventilation openings or by windows capable of being wholly or partly open so placed as to ensure through or cross ventilation.
5. Floors shall be constructed of cement concrete or of lime concrete not weaker than 1: 3: 5 and of a thickness of at least 7.50 cm.
- Provided that the floors of stone, burnt brick, tiles or other materials may be approved by the Labour Commissioner.
6. Where an employee is living with his wife and family, housing shall comprise of not less than two rooms of which the combined superficial floor areas shall not be less than 16.70 sq m.

PART II

REQUIREMENTS FOR BOTH TEMPORARY AND PERMANENT BUILDINGS

1. A housing for the occupation of employees shall not be erected in the vicinity of any swamp or swampy area, and a space of not less than 30.50 m shall be kept clean of refuse, weeds, rank grass and undergrowth all round such house or houses.
2. A building to be used for housing employees shall not be erected on a site which is insufficiently drained or has been filled up with offensive matter unless and until such matter has been properly removed or destroyed to the satisfaction of a medical officer.
3. A dwelling shall not be deemed adequate housing in which the living rooms are arranged back to back unless at least two of the walls of the dwelling are external walls and unless adequate and direct cross-line ventilation is provided.
4. The minimum distance between houses or buildings containing dwellings shall be 7.60 m.
5. All floors shall be raised at least 10 cm above the surrounding ground and shall be

maintained at this level.

6. Every external doorway shall have a suitable door properly fitted and hung for purposes of security.
7. An employer shall not allocate to any room used for sleeping purposes more than four persons except with the written consent of a proper officer. For the purpose of this paragraph, two children under ten years shall be reckoned as one person.
8. Storm water drains adequate to carry off roof drainage, surface water and flushings from quarters must be provided and properly maintained.
9. New buildings shall not be occupied until the surroundings have been cleared and all construction excavations have been filled in.
10. The walls and roof must be wind and weather proof and must be so maintained.
11. Where thatch forms the roof, the thickness of the thatch must be at least 7.50 cm where combed grass is used and 12.70 cm where uncombed grass is used, and the pitch of the roof must not be less than 45 degrees.
12. Arrangement for sleeping in tiers or bunks shall not be permitted.
13. Where cooked food is not provided by the employer each dwelling shall be provided with kitchen accommodation additional to the living and sleeping accommodation of not less than 2.25 sq m floor area and whether or not an integral part of the house, the kitchen shall be of the same standard of construction as the house.
14. Where an employer provides housing for his employees, such employer shall at all times provide sufficient and suitable sanitary convenience for such employees and their families and shall ensure that such sanitary conveniences are maintained in a clean condition.

PART III

ADDITIONAL REQUIREMENTS FOR TEMPORARY BUILDINGS

1. Temporary buildings shall be destroyed or rebuilt before the 15th day of August next occurring after such temporary buildings have been in existence for twelve months, provided that an extension not exceeding a further twelve months may be granted in writing by a proper officer.
2. The floor space of any room used for sleeping purposes shall not be less than 2.80 sq m for each person occupying the room when the full complement for the accommodation of which the room is provided is present.
3. Walls constructed solely of grass and supported by poles or solely of iron or canvas are prohibited.
4. The floor, if made of mud, must be well rammed and levelled and must be maintained smooth and free from cracks.
5. If ventilation by windows or openings amounting to 0.20 sq m per occupant is not provided, an air space of not less than 10 cm must be left between the walls and roof or thatch.

6. The internal diameter of round houses shall not be less than 3.65 m in the case of rectangular buildings, the minimum floor space area shall be 11.60 sq m and no side shall be less than 2.70 m:

Provided that in the case of individual single employees, rectangular houses shall have an internal measurement of 2.50 m by 2.10 m, and round houses shall have an internal diameter of 2.50 m.

7. When iron forms the roof, no wall shall be less than 2.50 m in height. When thatch or other suitable material forms the roof, no wall shall be less than 1.80 m in height.

(As amended by S.I. No. 46 of 1974)

Contact us: 260-1-266247/266248 Email: macrecruitment@uudial.zm

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