

**GRENADA**

**Employment Act**

**Act No. 14 of 1999**

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### PART I - PRELIMINARY

1. Short title. This Act may be cited as the EMPLOYMENT ACT, 1999.

2. Interpretation. "Arbitration Tribunal" means the Arbitration Tribunal established pursuant to section 46 of the Labour Relations Act, 1999;

"casual employee" means any employee who works on a daily basis on work of an intermittent or irregular nature with no expectation of continuity;

"child" means any person under the age of sixteen years:

"Court" means the High Court;

"dependent contractor" means a person, hereinafter referred to as "the employee," whether or not employed under a contract of employment, who performs work or service for another person for compensation or reward on such terms and conditions that the employee is, in relation to that person, in a position of economic dependence on, and under an obligation to perform duties for that person most closely resembling the relationship of employee than that of an independent contractor;

"employee" means a person who offers his services under a contract of employment and includes a dependent contractor and, where appropriate, a former employee;

"employer" means any person or undertaking, corporation, company, public authority or body of persons who or which employs any person to work under a contract of employment or uses the services of a dependent contractor, and includes the heirs, successors and assigns of an employer;

"forced labour" means work or service that is exacted from any person under the menace of any penalty and is not offered voluntarily, but does not include -

(a) any compulsory military service or work of a purely military character;

(b) any work or service that forms part of the normal communal or civil obligations of the citizens of Grenada;

(c) any work or service exacted from a person as a consequence of a conviction in any court, provided the person is not hired to or placed at the disposal of private individuals, companies or associations and the work or service is carried out under the supervision and control of a public authority;

(d) any work or service exacted in emergency situations where the life or well-being of the whole or part of the population is endangered, but only to the extent that the requiring of such labour is reasonably justifiable in the circumstances;

(e) minor communal services of a kind performed by the members of the community in the direct interest of the community;

"Minister" means the Minister for the time being responsible for labour matters or any person authorized to act on his behalf;

"public contract" means a contract, involving the expenditure of funds by any Government department or any local Government body, for -

(a) the construction, alteration, repair or demolition of public works;

(b) the manufacture, assembly, handling or shipment of materials, supplies or equipment;

(c) the performance or supply of services; "remuneration" means the wage and any additional benefits, allowance or emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the employee and arising out of the employee's employment;

"serious misconduct" means any grave offence which includes, but not limited to unprovoked assault, willful damage to the employer's property, proven dishonesty, refusal to carry out a reasonable request in accordance with duties;

"summary dismissal" means a dismissal whereby an employer dismisses an employee without notice or without the amount of notice to which that employee is entitled by virtue of the contract of employment;

"wage" means all earnings and allowances capable of being expressed in terms of money payable for the work or services performed or to be performed by an employee, but does not include -

(a) the value of any accommodation, supply of light, water, medical attention or amenities, supplied at the sole expense of the employer;

(b) any contribution paid by the employer to any pension or provident fund scheme;

(c) any travelling allowance or the value of any travelling concession;

- (d) any sum paid to an employee to defray special expenses incurred by the employee due to the nature of the employment;
- (e) any gratuity payable on discharge or retirement from the service of the employer.

3. Status of Act. Any provision in an agreement shall be void to the extent that it seeks to exclude or in any way limits the operation of any provision of this Act to the detriment of the employee.

4. Non-application of Act. This Act does not apply to members of the police force, armed forces or to prison guards or officers except those employed in a civilian capacity, although, as far as is practicable, their conditions of service should not be less favourable, than workers not excluded by this section.

5. Better terms and conditions not precluded. Nothing in this Act precludes better terms and conditions than those set out in the Act being agreed upon through collective bargaining or other forms of negotiation or agreement.

## PART II - ESTABLISHMENT AND FUNCTION OF THE DEPARTMENT OF LABOUR

6. Department of Labour and powers of the Minister.

- (1) There shall be a Department of Labour under the authority of the Minister.
- (2) The Department of Labour shall administer and carry out such other functions under this Act and under any other legislation as the Minister may direct.
- (3) The Minister may delegate any power authorised by this Act, but shall have the right to revoke the delegation at anytime and no delegation shall prevent the exercise of any power by the Minister.
- (4) In the event of the establishment of a Ministry of Labour all references in this Act to the Department of Labour shall be construed as a reference to the Ministry of Labour.

7. Officers of the Department of Labour.

- (1) There shall be a Labour Commissioner, a Deputy Labour Commissioner and such number of Senior Labour Officers and Labour Officers as may be necessary.
- (2) There shall also be other consultants, advisers, officers and clerks in the Department of Labour as may be necessary.

(3) The Deputy Labour Commissioner, the Senior Labour Officers, Labour Officers and the other officers and clerks shall perform such duties as may be assigned to them by the Labour Commissioner.

(4) All appointments to the Department of Labour are to be made by the Public Service Commission.

#### 8. Responsibilities of the Labour Commissioner.

(1) Subject to section 6, the Labour Commissioner shall be the chief adviser to the Minister on all labour matters and shall be responsible for the administration of the Department of Labour and the enforcement of this Act and in particular shall:

(a) promote the settlement of any differences between employers and employees in accordance with the provisions of the Act;

(b) advise the Minister on all labour matters and on measures to improve industrial relations generally;

(c) encourage the development of tripartism and collective bargaining and provide advice to employers and trade unions on industrial relations;

(d) be responsible for the inspection of all workplaces in accordance with this Part;

(e) be in charge of an employment agency and maintain a register of employers seeking workers and workers seeking employment;

(f) prepare an annual report on the work of the Department of Labour including the reports required under section 15, not later than the month of April following the year in review;

(g) make recommendations to the Minister for the promotion of good industrial relations practices;

(2) The Labour Commissioner may institute or cause to be instituted any prosecution for the purposes of enforcing the provisions of the Act.

9. Duty to inspect. Officers of the Department of Labour as determined by the Labour Commissioner shall inspect places of work as often and as thoroughly as is necessary to ensure effective application of this Act and any relevant statutory provision.

#### 10. Powers of officers.

(1) An officer of the Department of Labour -

(a) may, subject to paragraph (c), enter any workplace freely and without previous notice at any hour or the day or night;

(b) may, subject to paragraph (c), enter by day any premises which he or she reasonably believes to be a workplace;

(c) shall not enter the private home of an employer pursuant to paragraphs (a) and (b) except with the consent of the employer or with the written authorisation of the Labour Commissioner;

(d) may carry out any examination, test or enquiry which he considers necessary in order to satisfy himself that the provisions of the Act or of any law relating to the employment of persons are being strictly observed and in particular may -

(i) interrogate alone or in the presence of witnesses the employer or the employees of the undertaking on any matter concerning the application of any such law;

(ii) require the production of any records, books, registers or other documents, the keeping of which is prescribed by any law relating to employment or conditions of work, in order to ensure that the Act and any other relevant statutory provisions are being respected, and to copy such documents or make extracts of them;

(iii) enforce the posting of notices required by legal provisions;

(iv) take or remove for purpose of analysis samples of materials and substances used or handled, subject to the employer or the employer's representative being notified of and shown any samples or substances to be taken or removed for that purpose;

(v) take such photographs or video shots as may be useful;

(e) may require from employers, information as to the remuneration, hours and conditions of work of the employees;

(f) may inspect any record of accidents or occupational disease kept by the employer pursuant to any enactment and require from an employer information as to the causes and circumstances relating to any accident or occupational disease that may have occurred on the employer's premises or in the course of employment;

(g) may be accompanied by a member of the Police Force if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;

(h) may take steps with a view to remedying defects observed in plant layout or working methods which the officer reasonably believes constitute a threat to the health or safety of the workers.

(2) For the purposes of subsection (1) (h) an officer of the Department of Labour may subject to a right of appeal to the Court, make orders requiring -

(a) such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to health or safety of workers; or

(b) measures with immediate executory force in the event of imminent danger to the health or safety of the workers.

11. Duty to notify. Officers of the Department of Labour shall, when on an inspection visit, notify the employer or his representative of their presence, unless they consider that such notification may be prejudicial to the performance of their duties.



12. Prohibition of victimisation.

(1) Every employer shall grant the employees reasonable opportunity for communicating freely with the officers of the Department of Labour.

(2) No employer shall inflict any disadvantage on an employee for anything done or provided under this Part.

13. Prohibition on disclosing information.

(1) Officers of the Department of Labour, both while in office and afterwards, shall maintain secrecy concerning any manufacturing or commercial secrets or working processes which may have come to their knowledge in the course of their duties.

(2) Officers of the Department of Labour shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.

(3) Officers of the Department of Labour prohibited from having any direct or indirect interest in the undertakings under their supervision.

14. Duty to report periodically.

(1) Officers of the Department of Labour shall be required to submit to the Labour Commissioner periodical reports on the results of their inspection activities.

(2) These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the Labour Commissioner and shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.

15. Labour Commissioner's annual report and content thereof.

(1) The Labour Commissioner shall publish an annual general report on the work of the inspection services.

(2) The annual report published by the Labour Commissioner shall include but not limited to the following:

- (a) enactments, laws and regulations relevant to the work of the inspection service;
- (b) staff of the labour inspection service;

- (c) statistics of work places liable to inspection and the number of workers employed therein;
  - (d) statistics of inspection visits;
  - (e) statistics of violations and penalties imposed;
  - (f) statistics of industrial accidents; and
  - (g) statistics of occupational diseases.
16. Offences.

(1) Any person who without good cause:

- (a) contravenes sections 12 or 13;
- (b) hinders or obstructs an officer of the Department of Labour in the exercise of his powers or the performance of his duties;
- (c) refuses or fails to comply to the best of his ability with any requirement made by an officer of the Department of Labour in the exercise of his powers or the performance of his duties;
- (d) refuses or fails to answer to the best of his ability any question which an officer of the Department of Labour in the exercise of his powers or the performance of his duties has put to him;
- (e) willfully furnishes to an officer of the Department of Labour, information which is false or misleading;
- (f) conceals or prevents any person from appearing before or being examined by an officer of the Department of Labour, or attempts to conceal or prevent any person from appearing;
- (g) falsely represents himself or herself as an officer of the Department of Labour, commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

(2) Where proceedings are brought in respect of an offence under subsection (1) and the employer, or his representative, is found guilty of the offence, the Court may order the employer to pay compensation to the employee and, where appropriate, may order the reinstatement of the employee and the restoration to him of any benefit or advantage.

## PART III - ESTABLISHMENT OF LABOUR ADVISORY BOARD

### 17. Composition of Labour Advisory Board.

(1) The Minister shall appoint a Labour Advisory Board consisting of -

- (a) three persons nominated by the Minister;
- (b) three persons nominated by the most representative organisation of workers; and
- (c) three persons nominated by the most representative organisation of employers.

(2) The Labour Commissioner shall be one of the Government representatives and shall be the Chairperson, ex-officio.

(3) In the absence of the Labour Commissioner, one of the Government representatives shall act as the Chairperson.

(4) An officer of the Department of Labour shall be appointed as Secretary to the Board.

18. Term of office. Members of the Board shall be appointed for a term of two years and shall be eligible for re-appointment.

19. Vacancy on Board. Any vacancies on the Board shall be filled by the Minister in accordance with section 17.

### 20. Revocation of appointment.

(1) The Minister may revoke the appointment of a member of the Board at his discretion where the member is a Government representative.

(2) The Minister shall revoke the appointment of a member of the Board:

- (a) on the request of the representative worker's organisation where the member was nominated by that organisation;
- (b) on the request of the representative employer's organisation where the member was nominated by that organisation.

### 21. Functions of Board.

(1) The Board shall advise the Minister on all labour matters including the following:

- (a) the formulation and implementation of national policies on basic conditions of employment and on health, environment and safety and welfare at work;
- (b) the promotion of collective bargaining;

(c) proposals for the adoption and amendment of legislation; and  
(d) the review of the operation and enforcement of this Act and the Labour Relations Act, 1999.

(2) The Board shall also be consulted with respect to matters concerning the activities of the International Labour Organisation and in particular on -

(a) government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference;

(b) the proposals to be made to the competent authority or authorities in connection with the submission of conventions and recommendations pursuant to article 19 of the Constitution of the International Labour Organisation;

(c) the re-examination at appropriate intervals of unratified conventions and recommendations to which effect has not yet been given, and to consider what measures might be taken to promote their implementation and ratification as appropriate.

(d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organisation;

(e) proposals for the denunciation of ratified conventions.

22. Meetings of Board and procedure.

(1) Meetings of the Board shall be convened by the Chairperson or at the request of any three members of the Board.

(2) Where a request for a meeting is made by three members or the Board or by the Minister, the Chairperson shall convene the meeting within fourteen days of such request being made.

(3) The Board shall meet at appropriate intervals, but at least once a quarter.

(4) The Board may regulate its own procedure.

23. Quorum.

(1) Five members of the Board shall constitute a quorum for meetings at which no fewer than one workers' representative and one employers' representative must be present.

(2) Where a meeting of the Board is not properly constituted due to lack of a quorum, the subsequent meeting will be deemed to be properly constituted irrespective of whether a quorum is lacking.

(3) Notice for meetings shall be sent at least seven working days before the scheduled date; and all meetings shall be held during working hours as far as it is practicable.

24. Allowances and expenses. The Minister may authorise the payment of allowances to members of the Board and shall authorise the reimbursement of any reasonable expenses of members.

#### PART IV - FUNDAMENTAL PRINCIPLES

25. Prohibition of forced labour.

(1) No person shall be required to perform forced labour.

(2) Any person who exacts or imposes forced labour or causes or permits forced labour commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

26. Prohibition of discrimination.

(1) No person shall discriminate against any employee on the grounds of race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities, age or disability, in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment relationship.

(2) Subsection (1) does not preclude any provision, programme or activity that has as its object the amelioration of conditions of disadvantaged individuals, including those who are disadvantaged on the grounds enumerated in subsection (1).

(3) A person who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.

27. Equal pay for equal work. Every employer shall pay male and female employees equal remuneration for work of equal value.

28. Remedies for infringement of rights.

(1) An individual claiming an infringement of his rights contained in this Part may seek redress in the Court if that infringement cannot be redressed by way of the industrial relations framework.

(2) For the purposes of subsection (1) the Court may make such orders as may be necessary to ensure compliance with the provisions of this Part, including an order for reinstatement of an employee, if requested, the restoration to him of any benefit or advantage, and an order for the payment of compensation.

## PART V - CONTRACTS OF EMPLOYMENT

### 29. Types of contracts.

(1) Subject to this Act, this Part applies to all contracts of employment.

(2) A contract of employment may take one of the following forms:

(a) a contract for an unspecified period of time;

(b) a contract for a specified period of time;

(c) a contract for a specific task.

(3) A contract for an unspecified period of time may be terminated by either party, subject to the provisions of the Act concerning dismissal and notice of termination.

(4) A contract for a specified period of time shall automatically terminate on the date specified for its termination and no notice shall be required for its termination, unless it is expressly or tacitly renewed or prolonged.

(5) Where the purpose or effect of a contract that is purportedly for a specified period of time or for a specific task is the filling on a lasting basis of a post connected with the normal and permanent activity of the undertaking, establishment or service, it shall be deemed to be a contract for an unspecified period of time.

(6) A contract to perform a specific task shall terminate on the completion of the task and no notice of termination shall be required of either party.

(7) In contract of employment which do not specify the length of the probationary period, the following probationary periods shall be deemed to apply:

(a) not more than one month in the case of unskilled workers;

(b) three months in the case of other workers, but which period may be extended by a collective agreement.

(8) Up to the end of a probationary period, a contract of employment may be terminated at anytime by either party without notice.

### 30. Particulars of employment.

(1) Subject to subsection (4), every employer shall give to each employee a written statement of particulars of employment.

(2) The statement shall be given -

(a) within three months of the commencement of this section to each employee who is then employed by the employer; and

(b) within one month of beginning work to each employee subsequently taken into employment.

(3) The written statement required by this section shall include the following particulars:

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

(b) the date of commencement of the contract;

(c) the rate of remuneration and the method of calculating remuneration;

(d) the intervals at which remuneration is paid;

(e) the nature of the work to be performed;

(f) normal hours of work;

(g) any provisions for the termination of the contract other than those provided by the Act;

(h) any disciplinary rules applicable to the employee.

(4) This section shall not apply to an employee -

(a) whose normal hours of work are less than sixteen hours per week;

(b) who is employed for a fixed term of less than twelve weeks or a fixed task to be performed within twelve weeks;

(c) who is a member of the immediate family;

(d) whose contract of employment is regulated by a collective agreement which contains terms affording the particulars specified in subsection (3).

### 31. Public contracts.

(1) Every public contract shall include the provisions set out in the Schedule.

(2) If the public contract does not include the provisions referred to in subsection (1) such inclusion shall be so deemed.

32. Prohibition on child labour.

(1) Subject to subsection (3), no person under the age of sixteen years shall be employed or allowed to work in any public or private agricultural, industrial or non-industrial undertaking or any branch thereof, save and except for holiday job employment.

(2) Subject to subsection (3), no person under the age of sixteen years shall be employed or allowed to work on vessels.

(3) The provisions of this section do not apply to the following:

(a) work done by children in technical schools, work done by children on job training or work experience exercises provided that such work is approved and supervised by public authority;

(b) work done by children on school-ships or training ships, provided that such work is approved and supervised by public authority.

33. Register of young persons. Every employer shall keep a register of all persons under the age of eighteen years employed by him and of the dates of their births.

34. Medical examination.

(1) The employer of any person under the age of eighteen on any vessel shall be conditional on the production of a medical certificate attesting fitness for such work, signed by a registered medical practitioner.

(2) A person under the age of eighteen employed on any vessel shall undergo a medical examination at least once every year at the expense of the employer and obtain a medical certificate attesting fitness for such work, signed by a registered medical practitioner.

35. Offence. Any person who contravenes section 32 commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding three years or to both such fine and imprisonment.



## PART VI - HOURS OF WORK AND CONTINUITY OF EMPLOYMENT

36. Interpretation. For the purposes of this Part -

"agricultural worker" means any person, not being in any management position, who is employed among other things, to cultivate or harvest agricultural products;

"catering assistant" means any person, not being in any management position, who is employed in a restaurant, guest house, refreshment house, hotel or similar establishment for the purposes of catering food, drinks entertainment or accommodation to the public;

"clerical assistant" means any person, not being in any management position, who is employed in any business establishment for doing clerical duties;

"construction worker" means any person, not being in any management position, who is employed in construction, reconstruction, maintenance, repair, alteration, or demolition of any building, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work or other work or construction as well as the preparation for or laying the foundations of any such work or structure;

"continuous employment" and "continuity of employment" mean an employee's period of uninterrupted employment with the same employer;

"domestic worker" means any person who is employed for the purpose of undertaking household chores including but not limited to cooking, washing, ironing, baby sitting, and general cleaning;

"industrial worker" means any person, not being in any management position who is employed in industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed; also includes any person employed for the purpose of electronic data processing telecommunication, electricity generation and/or distribution;

"security guard" means any person, other than a police officer or prison officer, who is employed for, among other things, the protection of plant or machinery, real property, personnel, maintenance of law and order;

"shift worker" means any employee who works within a system of employment established by the employer which requires different groups of workers to work at different times on a shift basis.

"shop assistant" means any person, not being in any management position, who is employed in a shop or store where wholesale or retail trade or business is carried on;

37. Maximum weekly working hours for employees. No employer shall require any employee with the exception of shift workers in the under-mentioned categories to work for more than the hours prescribed hereunder during any week, excluding overtime:

(a) for an agricultural worker, a construction worker or an industrial worker, no more than forty hours with the ordinary working days being Mondays to Fridays;

(b) for a clerical assistant or a shop assistant, no more than forty-four hours with the ordinary working days being Mondays to Saturdays;

(c) for a catering assistant no more than forty-four;

(d) for a domestic worker, or security guard no more than sixty hours.

38. Prohibition on ordinary working hours. No employer shall require an employee to work for more than six consecutive days without a period of rest comprising at least twenty-four consecutive hours which shall be taken on a customary day of rest or on a day agreed upon between the parties.

39. Maximum daily ordinary working hours.

(1) As ordinary working hours, no employer shall require any employee save and except a security guard, a domestic worker or a shift worker, to work for more than eight hours on any day, inclusive of lunch period without paying adequate compensation for overtime work.

(2) As ordinary working hours, no employer shall require a domestic worker to work for more than ten hours on any day, inclusive of two hours for lunch and rest periods.

(3) As ordinary working hours no employer shall require a security guard, or a shift worker to work for more than twelve hours on any day.

40. Special provisions for young persons. No person under the age of eighteen years shall be employed or allowed to work between the hours of 9:00 p.m. to 6:00 a.m.

41. Meal intervals.

(1) No employer shall require an employee -

(a) subject to subsection (2), to work for more than five hours continuously without a meal interval of not less than one hour, or any such period as may be agreed upon.

(b) to perform any work during his meal interval, without the consent of that employee.

(2) An employer may conclude an agreement with his employee to shorten such employee's meal interval to not less than thirty minutes; but any such agreement shall not be of any force and effect unless the employer has given written notice of such agreement to the Labour Commissioner.

#### 42. Overtime.

(1) No employer shall require an employee to work overtime otherwise than pursuant to an agreement concluded between the employer and the employee.

(2) An employer shall pay to an employee who works overtime an amount calculated at a rate of not less than one and one-half times his wage for one hour in respect of the overtime worked, or twice his wage for one hour in respect of the overtime worked on a Sunday or public holiday.

43. Payment for public holiday. A worker who is paid on a daily basis and who works on the working day before and the working day after a public holiday shall be paid for the public holiday.

#### 44. Particulars of continuity of employment.

(1) Continuous employment shall begin from and include the first day on which an employee begins to work for an employer and shall continue up to and including the date of termination.

(2) It shall be presumed, unless the contrary is shown, that the employment of an employee with an employer is continuous whether or not the employee remains in the same job.

(3) An employee's continuous employment shall not be treated as interrupted if the employee is absent from work:

(a) due to taking annual leave, maternity leave or sick leave or any other leave in accordance with this Act, any other enactment or contract or agreement;

(b) due to his suspension, with or without pay, in accordance with the provisions of this Act, any other enactment or contract or agreement;

(c) due to the termination of his employment prior to being reinstated or re-engaged in accordance with section 83 or under any contract or agreement;

(d) due to having been temporarily laid-off by the employer;

(e) due to action in pursuance of a strike in which he did not participate;

(f) due to a lockout;

(g) in accordance with the agreement of his employer;

(h) due to public duty;

(i) due to force majeure or act of God.

(4) Any periods of time elapsing in the circumstances referred to in subsection (3) shall count for the period of calculating the continuous period of employment.

(5) Any period during which an employee is absent from work because of his participation in a strike shall not interrupt the continuity of employment, but shall not count for the purposes of calculating the length of continuous employment.

#### 45. Successor employer.

(1) Where a business or a part of it is sold, leased, transferred or otherwise disposed of, the periods of employment with the two successive employers shall be deemed to constitute a single period of continuous employment with the successor employer.

(2) The employees of the former employer shall have the option to be terminated and receive termination allowance or continue with the successor employer.

46. Seasonal employment. Where an employee is engaged in an occupation in which it is customary to employ some employees only at certain seasons of the year and that employee is employed for successive seasons, the employee shall be deemed to have been continuously employed for the aggregate of all the time he has actually performed work for the same employer for continuous seasons.

### PART VII -PROTECTION AND REGULATION OF WAGES

#### 47. Payment of wages.

(1) The wages payable to an employee, other than a casual employee, shall be paid:

(a) not less often than once a fortnight in the case of employees whose wages are fixed by the hour or day or week, or whose wages are calculated solely on a piece-work or out-put basis, or who are required to perform task work;

(b) not less than once a month in the case of employees whose wages are fixed on a monthly or yearly basis.

(2) The provisions of subsections (1) (a) and (b) shall not apply where other intervals for the payment of wages to employees are fixed by collective agreement or arbitration award provided that no other intervals for the payment of wages so fixed is for a period exceeding one month.

(3) The wages payable to a casual employee shall be paid daily or, if the employer and his employee so agree, weekly, fortnightly or monthly.

(4) The wages payable to an employee -

- (a) shall be paid to such employee or to a person specified by him in writing;
  - (b) shall be paid in legal tender or by cheque drawn on a bank in Grenada, but may, on the written request of any employee, other than a casual employee, be paid into a bank, credit union or co-operative society provided the statement referred in section 48 is given to the employee;
  - (c) shall, where made in cash, be made on a working day and at or near the workplace.
- (5) Partial payment of wages in the form of allowances in kind may be made in industries and occupations where such allowances are customary, subject to the following conditions:

- (a) the payment of wages in the form of liquor or noxious drugs shall not be permitted under any circumstances;
- (b) the allowances are appropriate for the personal use and benefit of the employee's family;
- (c) the value attributed to the allowances is fair and reasonable.

48. Employee's entitlement to pay statement.

(1) Every employee shall receive with each payment of wages an itemised statement from the employer in writing in a form which sets out:

- (a) the employee's gross wages due at the end of that pay period ;
  - (b) the amount of every deduction from his wages during that pay period and the purpose for which each deduction was made; and
  - (c) the employee's net wages payable at the end of that pay period.
- (2) Where an employer fails to provide a pay statement as required by this section, or fails to provide an accurate statement, an employee may complain to the Labour Commissioner.

49. Prohibitions relating to remuneration.

(1) No employer shall, except with the permission of the Labour Commissioner-

- (a) require an employee to pay or repay to him any remuneration payable or paid to that employee in accordance with this Act;
- (b) do any act or permit any act to be done as a direct or indirect result of which an employee is deprived of the benefit or of any portion of the benefit of any remuneration payable or paid;
- (c) require or permit an employee to give a receipt for or otherwise to represent that he received more than he actually received by way of remuneration;

(d) require an employee to make use of any stores which are established for the sale of commodities to his employees or services which are established in connection with his undertaking, provided that goods and services in such work stores shall be provided at fair and reasonable prices;

(e) require or permit wages to be paid in any place where alcoholic liquor or noxious drugs are sold or in a place of amusement or in a shop or store for the retail sale of merchandise, except in the case of persons employed therein;

(f) limit in any manner the freedom of the employee to dispose of his wages;

(g) make any deduction from the wages of an employee for any fine or for bad or negligent work or for injury to materials or other property.

(2) Notwithstanding anything contained in this Act, the employer may deduct from the remuneration due to the employee, the following amounts:

(i) monies due to the employer in respect of housing furnished by the employer to the employee, goods sold by the employer to the employee or any loan or advance on his wages granted by the employer to the employee;

(ii) monies which the employer has paid or has undertaken to pay in connection with any loan granted to such employee in order to acquire real property, a dwelling or house hold equipment;

(iii) monies which the employee owes to a vacation, sick, medical, insurance, savings, provident or pension fund;

(iv) monies which are deducted in accordance with section 43 of the Labour Relations Act, 1999.

(3) No deduction in the form of direct or indirect payments for the purpose of obtaining or retaining employment shall be made from the wages of an employee by an employer, an intermediary, labour contractor or receiving agent.

50. Payment of remuneration on termination. All wages and other remuneration due to an employee on the termination or completion of his contract of employment shall be paid within seven days after the termination or completion.

51. Establishment of Wages Advisory Committee.

(1) Where no arrangements exist for the effective regulation of wages in a particular trade, industry or occupation or where the Minister deems it expedient, he shall appoint a Wages Advisory Committee to investigate the conditions of employment in such trade, industry or occupation and to make recommendations as to the minimum rates of wages which should be payable.

(2) An order made under section 52 shall be reviewed by the Wages Advisory Committee at least once every three years with a view to updating the minimum rate of wages.

(3) The Wages Advisory Committee shall consist of equal number of -

- (a) members nominated by the most representative organisation or organisations of workers;
- (b) members nominated by the most representative organisation or organisations of employers; and
- (c) representatives of other interests as the Minister deems appropriate.

(4) The Minister shall designate one of the members of the Wages Advisory Committee as Chairperson.

(5) An officer of the Labour Department shall be appointed as Secretary of the Wages Advisory Committee.

(6) The Minister may make rules prescribing the powers, duties and procedure of the Wages Advisory Committee.

(7) The Minister may authorise the payment of allowances to and the reimbursement of the reasonable expenses of the members of the Wages Advisory Committee.

#### 52. Minimum wage order.

(1) After considering the recommendations of the Wages Advisory Committee, the Minister may make an order prescribing, varying or revoking the minimum rates of wages payable.

(2) Any minimum wage order made pursuant to subsection (1) shall be published in the Gazette.

(3) A minimum wage order becomes effective on the date on which the order is published in the Gazette or on such other date as is specified in the order.

(4) A minimum wage order may prescribe time rates, piece rates and overtime rates.

#### 53. Posting of notices.

(1) Every employer affected by a minimum wage order shall post in a conspicuous place a notice fully informing the employees of the contents of the order.

(2) An employer who, violates this section commits an offence and shall be liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

#### 54. Consequences of failure to pay minimum wage.

(1) Where an employer pays less than the rate of wages prescribed in a minimum wage order, the employer commits an offence and shall be liable on summary conviction as follows:

- (a) for a first conviction to a fine not exceeding five thousand dollars;
- (b) for a second or subsequent conviction, to a fine not exceeding ten thousand dollars.

(2) Where it is found that an employer has paid less than the rate of wages prescribed in a minimum wage order, the Court shall order the employer to pay to the employee or to the employees the difference between the amount which should have been paid and the amount which was in fact paid and interest on that amount where appropriate.

(3) Where it is alleged that an employer has paid less than the rate of wages prescribed in a minimum wage order, the burden shall be on that employer to prove that there was no violation of the order.

#### PART VIII - LEAVE ENTITLEMENTS GENERALLY

#### 55. Interpretation. In this Part -

"daily paid workers" include employees who are employed for part of a day and are paid accordingly;

"date of expected confinement" means the date of the expected birth of a child;

#### 56. Annual leave.

(1) Except where otherwise provided for in this Act, every agricultural worker, catering assistant, clerical assistant, construction worker, domestic worker, industrial worker, security guard and shop assistant shall be entitled to a period of annual leave with pay of not less than the following:

- (a) two weeks for the first year of employment;
- (b) three weeks thereafter.

(2) Where an employee is employed on a half day basis, a half day shall be counted as one working day in the computation of periods of employment for vacation leave.

(3) An employee employed on a daily or hourly basis shall be allowed a period of paid vacation leave of not less than one working day for every period of fifteen days or one hundred and twenty hours as the case may be.



57. No work during leave. No employer shall during an employee's leave referred to in section 56 require that employee to perform any work as his employee, except with the agreement of the employee.

58. Date of leave.

(1) The leave referred to in section 56 -

(a) shall be granted by the employer, after consultation with the employee, as from a date determined by the employer, but as far as it is practicable not later than six months after the end of the year in respect of which the entitlement arose;

(b) shall not be concurrent with any period of sick leave granted pursuant to section 71 or maternity leave granted pursuant to section 59, or with a period of notice of termination of the contract of employment;

(c) shall be extended by one working day with full pay for each public holiday which falls within the employee's period of leave and which falls on a day which otherwise would have been an ordinary working day for the employee.

(2) As far as it is practicable an employer shall pay an employee to whom leave is granted under section 56 the remuneration in respect of his leave not later than the employee's last working day before the commencement of his leave or by agreement.

(3) Upon termination of an employee's employment, the employer shall pay to him the remuneration in respect of any leave which accrued to the employee but was not granted before the date of termination of employment.

59. Rights of employee re pregnancy.

(1) Subject to this section, an employee who is pregnant shall be entitled under this Act as of right to take maternity leave in accordance with section 60 or section 62, and to receive from her employer maternity pay in accordance with section 61, and to return to work in that employment thereafter if she so desires.

(2) An employee shall only be entitled under subsection (1) if -

(a) at the date of her expected confinement she would have been continuously employed by that employer (or a successor to that employer) for a period of eighteen months or more;

(b) she informs her employer (in writing if he so requests) at least three weeks before the commencement of the maternity leave required -

(i) that she will be requiring maternity leave because of pregnancy; and

(ii) that she intends to return to work for her employer.

(3) For the purposes of paragraph (a) of subsection (2), "continuously employed" in relation to daily paid workers means employment for one hundred and five days in a period of eighteen months.

#### 60. Maternity leave.

(1) An employee shall be entitled under this Act to maternity leave for a period of three months, with maternity pay calculated and paid in accordance with section 61.

(2) In any case where the child of an employee dies at birth, or within one month thereof, her entitlement to maternity leave with maternity pay shall cease thirty days after the death of the child.

(3) Maternity leave shall commence on a day chosen by the employee who shall not be obliged to return to work before the expiration of the period of her paid leave; but she may return to work at anytime before the expiration of three months at her own option.

#### 61. Maternity pay.

(1) Maternity pay shall comprise -

(a) in the case of monthly paid employees, a sum not less than forty per cent of two months pay;

(b) in the case of weekly or fortnightly paid employees, a sum not less than forty per cent of four fortnights pay;

(c) in the case of daily paid workers, a sum not less than forty per cent of one-fifth of the pay earned in the twelve months immediately prior to the commencement of the leave being taken.

(2) Maternity pay shall be paid by an employer -

(a) in a lump sum on the first day of maternity leave; or

(b) in the same manner in which the employee was ordinarily paid previously, at the election of the employee.

62. Maternity leave without maternity pay in certain cases. An employee whose pregnancy commences before she has worked for her employer for a period of eighteen months (or in the case of a daily paid worker one hundred and five days in a period of eighteen months), or who is ineligible for maternity leave with maternity pay by virtue of section 65, shall be entitled to take maternity leave without pay for a period of three months, and that employee may return to work at any time before the expiration of three months at her own option, provided that a certificate of fitness from a registered medical practitioner is given to the employer.

### 63. Exercise of right to return.

(1) An employee shall exercise her right to return to work by notifying her employer (who may be the original employer or a successor to that employer) at least two weeks before the day on which she proposes to return, of her intention to return on that day (in this section referred to as "the notified day of return").

(2) An employee may postpone her return to work for a total period of not more than sixty days if, before the notified day of return, she gives her employer a certificate from a medical practitioner stating that, by reason of disease or the physical or mental disablement of herself or her child, she will be incapable of work on the notified day of return.

(3) If an employee has notified a day of return but an intervening interruption of work (whether due to industrial action or some other reason) renders it unreasonable to expect the employee to return to work on the notified day of return, she may instead return to work when work resumes.

64. Choice of right to return. An employee who has, under both this Act and a contract of employment, the right to return to work may not exercise those rights separately but may avail herself of whichever right is, in any particular respect, the more favourable.

65. Restriction on entitlement to maternity leave with pay. An employee entitled to maternity leave and maternity pay under this Act shall, after the first occasion, be so entitled only once in each period of two years and on no more than three occasions including the first occasion.

### 66. Offence.

(1) An employer who refuses or wrongfully fails to accord to an employee her entitlement due under this Act commits an offence and shall be liable on summary conviction, on the complaint of the employee or the Labour Commissioner, to a fine of five thousand dollars and to imprisonment for six months.

(2) Where a person is guilty under subsection (1) of an offence in relation to maternity pay the court shall, on conviction, order the offender to pay, in addition to any fine, compensation to the employee of a sum equal to the amount of maternity pay due and owing under this Act, and such sum may be recovered as if it were a fine under this Act and when recovered, shall be paid to the employee.

67. Termination of employment on account of pregnancy.

(1) An employer who terminates the employment of an employee because she is pregnant commits an offence and the burden of proving that the employment was not terminated because of pregnancy shall be on the employer.

(2) An employer who commits an offence under subsection (1) shall be liable, on summary conviction, to a fine of five thousand dollars and to imprisonment for one year, and the court shall order the employer to reinstate the employee who shall be entitled under this Act in all respects as if her employment had not been terminated.

(3) An employer who is ordered under subsection (2) to reinstate an employee and refuses so to do commits an offence and shall be liable on summary conviction to a fine of one hundred dollars for each day during which the offence continues.

(4) A prosecution under this section may be instituted on the complaint of the Labour Commissioner or an employee.

68. Employer to keep record of female employees.

(1) Every employer shall keep, in relation to each female employed by him, a record showing -

- (a) her name and address;
- (b) the date of commencement of her employment;
- (c) her normal pay and normal working week;
- (d) the duration (with dates) of any previous periods of maternity leave granted pursuant to this Act to the employee; and
- (e) all maternity pay which has been paid to the employee on any and every previous occasion.

(2) An employer who contravenes subsection (1) commits an offence and shall be liable, on summary conviction, to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

69. Maternity leave is additional to vacation leave. For the avoidance of doubt it is hereby declared that maternity leave granted under this Act shall be in addition to in any vacation leave to which an employee may be entitled.

70. Court fees and other fees. No fees shall be imposed by the magistrate or by the clerk of the court in respect of any proceedings under this Act; but the magistrate may direct the recovery from the defendant, if the decision is against him, of the fees which would have been taken and, where appropriate, any fee for legal representation.

#### 71. Provision for sick leave.

(1) After not less than twelve months continuous service and subject to subsection (4) an employee shall be eligible for paid sick leave on the production of a medical certificate from a registered medical practitioner stating the nature and expected duration of the employee's incapacity.

(2) During sick leave, an employee shall be paid at the normal rate of wages less any amount to which the employee is entitled as a benefit by virtue of the National Insurance Act.

(3) An employer shall not be responsible to pay an employee for more than five occasions during a one year period that he does not provide a medical certificate.

(4) If sick leave other than maternity leave is required for more than two months the employer may require the employee to attend a medical practitioner of the employer's choice and pay the cost involved and based upon the medical report shall have a discretion as to whether any further period will be granted.

#### 72. Supplementary family leave.

(1) Any employee, whether male or female, may take leave for reasons of family responsibilities with the consent of the employer for the duration agreed upon by the employer and the employee.

(2) An employer shall not unreasonably refuse to give the consent referred to in subsection (1).

(3) "Family responsibilities" may include but not limited to the following: sickness or death of spouse, sickness or death of a close relative or dependant person.

### PART IX - DISCIPLINE AND TERMINATION OF EMPLOYMENT

#### 73. Disciplinary action by employer.

(1) An employer shall be entitled to take disciplinary action including dismissal when it is reasonable to do so in all the circumstances.

(2) In deciding whether the employer has acted reasonably, regard shall be had to the nature of the violation, the employee's duties, the penalty imposed by the employer, the procedure followed by the employer, the nature of any damage incurred and the previous conduct and the circumstances of the employee.

(3) For the purposes of this section a "disciplinary action" includes -

- (a) a verbal warning,
- (b) a written warning,
- (c) suspension,
- (d) demotion,
- (e) dismissal.

(4) No employer may impose a fine or other monetary penalty on an employee.

(5) A complaint that disciplinary action is unreasonable may be made to the Labour Commissioner, and if necessary, to the Minister.

(6) Where the Labour Commissioner and the Minister fail to settle the matter, it may be referred to the Arbitration Tribunal for final decision.

(7) The right of an employee to make a complaint under this section shall be without prejudice to any right an employee may enjoy under a collective agreement.

#### 74. Justification for dismissal.

(1) The employment of an employee shall not be terminated by an employer unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise, or breach of contract of employment or disciplinary rules.

(2) the following reasons do not constitute valid reasons for dismissal or the imposition of disciplinary action:

- (a) an employee's race, colour, national extraction, social origin, religion, political opinion, sex, marital status, family responsibilities or disability,
- (b) a female employee's pregnancy or a reason connected with her pregnancy,
- (c) an employee's exercise of any of the rights specified in Part V of the Labour Relations Act, 1999;
- (d) an employee's temporary absence from work because of sickness or injury;
- (e) an employee's exercise or proposed exercise of the right to remove himself or herself from a work situation which he reasonably believes presents an imminent or serious danger to life or health;
- (f) an employee's participation, or proposed participation in industrial action which takes place in conformity with Part IX of the Labour Relations Act, 1999;
- (g) an employee's refusal to do any work normally done by an employee who is engaged in industrial action;

(h) the filing of a complaint or the participation in proceedings against an employer involving alleged violations of any enactment.

75. Notice of Termination.

(1) Subject to section 74, a contract for an unspecified period of time may be terminated by the employer after the probationary period, if any, upon giving the following minimum periods of notice in writing:

(a) one working day where the employee has been employed by the employer for less than one month;

(b) one week where the employee has been employed by the employer for one month or more, but less than three months;

(c) two weeks where the employee has been employed by the employer for three months or more, but less than one year;

(d) one month where the employee has been employed by the employer for one year or more, but less than five years;

(e) two months where the employee has been employed by the employer for five years or more.

(2) The minimum period of notice an employee shall give an employer is two weeks in the case where an employee has been employed for three months or for a longer period, and one month where the employee has been employed for one year or more.

(3) A period of notice under subsection (1) given by an employer shall not take effect at any time during an employee's period of absence on any leave granted pursuant to Part VIII.

(4) Nothing in this section prevents -

(a) the parties to a contract from agreeing to a longer period of notice of termination than is provided for in this section; or

(b) an employer waiving the right to receive notice.

76. Unfair dismissal. A dismissal is unfair if it is not in conformity with section 74 or is constructive dismissal pursuant to section 80.

77. Summary dismissal. An employer is entitled to dismiss summarily where the employee is guilty of serious misconduct of such a nature that it would be unreasonable to require the employer to continue the employment relationship.

78. Certificate of termination.

(1) On the termination of a contract of employment an employer, if so requested by the employee, shall provide the employee with a certificate indicating:

- (a) the name and address of the employer;
  - (b) the nature of the employer's business;
  - (c) the length of the employee's continuous employment with the employer;
  - (d) the capacity in which the employee was employed prior to the termination;
  - (e) the wages and other remuneration payable at the date of termination of the contract; and
  - (f) where the employee so requests, the reasons for the termination of employment.
- (2) The certificate required by this section shall not contain any evaluation of the employee's work unless this is requested by the employee.

#### 79. Payment in lieu of notice.

(1) In lieu of providing notice of termination, the employer shall pay the employee a sum equal to the wages and other remuneration and confer on the employee all other benefits that would have been due to the employee up to the expiry of any required period of notice.

(2) Where the employee terminates the contract without notice in circumstances in which notice was required, and the employer has not waived the right to notice, the employee shall be entitled only to be paid such wages and other remuneration and to receive such other benefits which accrued at the date of termination.

#### 80. Constructive dismissal.

(1) An employee is entitled to terminate the contract of employment without notice or with less notice than that to which the employer is entitled by any statutory provision or contractual term, where the employer's conduct has made it unreasonable to expect the worker to continue the employment relationship.

(2) Where the contract of employment is terminated by the employee pursuant to subsection (1), the employee shall be deemed to have been unfairly dismissed by the employer.

#### 81. Proof of reason for dismissal.

(1) Where any claim or complaint arises out of the dismissal of an employee the onus rests on the employer to prove the reason for dismissal, and if the employer fails to do so there shall be a conclusive presumption that the dismissal was unfair.

(2) In addition to providing that an employee was dismissed for reasons stated in section 74 (1), an employer must also show that in all the circumstances of the case, he acted with justice and equity in dismissing the employee.



(3) In the circumstances mentioned in section 80, the employee must prove the reason which made the continuation of the employment relationship unreasonable.

## 82. Complaints of unfair dismissal.

(1) Within three months of the date of dismissal, an employee shall have the right to complain to the Labour Commissioner that he or she has been unfairly dismissed, whether notice has been given or not.

(2) No complaint under this section may be made by an employee who has been dismissed during the probationary period or has reached the normal retirement age for employees employed in his capacity.

(3) The right of an employee to make a complaint under this section shall be without prejudice to any right an employee may enjoy under a collective agreement.

(4) Where the Labour Commissioner fails to settle the matter it shall be referred to the Minister who shall hear the matter as soon as it is practicable.

(5) Where the Minister fails to settle the matter it may be referred to an Arbitration Tribunal.

## 83. Remedies for unfair dismissal.

(1) If the Arbitration Tribunal determines that an employee's complaint of unfair dismissal is well founded it shall award the employee one or more of the following remedies:

(a) if the employee requests, an order for reinstatement where the employee is to be treated in all respects as if he had never been dismissed;

(b) an order for re-engagement whereby the employee is to be engaged in work comparable to that in which he was engaged prior to his dismissal, or other reasonably suitable work, from such date and on such terms of employment as may be specified in the order agreed by the parties;

(c) an award of compensation as specified in subsection (4).

(2) The Arbitration Tribunal shall, in deciding which remedy to award, first consider the possibility of making an award or reinstatement or re-engagement, taking into account in particular the wishes of the employee and the circumstances in which the dismissal took place, including the extent, if any, to which the employee caused or contributed to the dismissal.

(3) Where the Arbitration Tribunal determines that the employee caused or contributed to the dismissal to any extent, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

(4) An award of compensation shall be such amount as the Arbitration Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal.

(5) The amount awarded shall not be less than two week's pay for each year of service for workers with less than two years of service and one month's pay for each year of service for workers with more than two years of service and an amount additional to such loss may be awarded where dismissal was based on any of the reasons set out in section 74(2).

(6) Where the Arbitration Tribunal has made an award of reinstatement or re-engagement and this is not complied with by the employer, the employee shall be entitled to a special award of an amount equivalent to twenty-six weeks' wages, in addition to a compensatory award under subsection (4).

#### 84. Termination allowance.

(1) On termination at the initiative of the employer, an employee who has completed one year or more of continuous employment with his employer and who is not entitled to gratuity shall be entitled to be paid by the employer a termination allowance of not less than one week's wages for each completed year of service.

(2) For the purposes of subsection (1) termination includes termination by reason of the insolvency of the employer.

(3) The payment of a termination allowance under subsection (1) shall not affect the employee's entitlement, if any, to payment in lieu of notice under section 80 or to a compensatory or special award under section 84.

(4) Subsection (1) shall not apply where the employee:

- (a) is fairly dismissed for a reason related to his conduct;
- (b) unreasonably refuses to accept an offer of re-employment by the employer at the same place of work, under no less favourable terms than he was employed immediately prior to the termination;

(c) is employed by a partnership and his employment ceases on the dissolution of the partnership, and he either enters into employment with one or more of the partners immediately after such dissolution, or unreasonably refuses to accept an offer of employment by any such person on no less favourable terms than he was employed immediately prior to the dissolution;

(d) is over the age of sixty or has reached retirement age.

(5) A complaint that a termination allowance has not been paid may be presented to the Labour Commissioner and if necessary to an Arbitration Tribunal which, if it finds the complaint to be well founded, shall make a declaration to that effect and order payment of the amount due.

#### 85. Transfer of contracts.

(1) No contract of employment shall be transferred from one employer to another without the consent of the employee, except as provided in section 45(2).

(2) Section 45(2) shall not operate to transfer or otherwise affect the liability of any person to be prosecuted for, convicted of, and sentenced for any offence.

86. Death of employer. When the employer's personal or legal position formed the basis of the contract of employment, the death of the employer shall cause the contract of employment to terminate one month from the date of the employer's death, unless it is otherwise terminated in accordance with section 74 (1) within that period.

#### 87. Insolvency of employer.

(1) The insolvency or winding-up of the employer's business shall cause the contract of employment of any employee to terminate one month from the date of insolvency or winding-up, unless it is otherwise terminated in accordance with section 75 (1) within that period.

(2) This section shall not apply where, notwithstanding the insolvency or winding-up, the business continues to operate or has been transferred.

(3) On the insolvency or winding-up of an employer's business the claim of an employee or those claiming on his behalf to wages and other payments to which he is entitled under the Act or any contract shall have priority over all other creditors, including the state and the social security system, for the following amounts:

(a) wages, overtime pay, commissions or other forms of remuneration relating to work performed during the twenty-six weeks preceding the date of the declaration of insolvency or winding-up;

- (b) holiday pay due as a result of work performed during the two years preceding the date of the declaration of insolvency or winding-up;
- (c) amounts due in respect of other types of paid absence accrued during the twelve months preceding the date of the declaration of insolvency or winding-up;
- (d) termination allowance, compensation for unfair dismissal and other payments due to employees upon termination of their employment.

## PART X - MISCELLANEOUS

### 88. General penalty.

(1) A person who contravenes any express prohibition contained in this Act for which no penalty is prescribed shall be liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months.

(2) In cases where a registered company is involved in a violation of this Act any person involved in the management of that company may be charged with the offence.

### 89. Complaints procedure.

(1) Any person alleging a violation of a provision of this Act may report the matter to the Labour Commissioner, who may institute or cause to be instituted a prosecution in order to enforce the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), where not otherwise specified, any person alleging a violation of this Act may present the complaint to the court for appropriate relief.

### 90. Regulations.

(1) The Minister may, after consultation with the Labour Advisory Board, make regulations prescribing anything that is required or necessary to be prescribed and generally to give effect to this Act.

### 91. Repeal.

(1) The following enactments are repealed:

- (a) Employers and Employees Act, Cap. 89,
- (b) Department of Labour Act, Cap. 80,
- (c) Employment of Women, Young Persons and Children Act. Cap. 90,
- (d) Labour Clauses (Public Contracts) Act, Cap. 157,

- (e) Maternity Leave Act, Cap. 187,
- (f) Shop (Hours) Ad, Cap. 304,
- (g) Wages Council Act, Cap. 334.
- (2) Sections 3, 4, 6-11, 15-18 & 23 of the Protection of Wages Act Cap. 260 are repealed.

(3) All persons appointed for the purposes of the Department of Labour Act shall continue their duties under this act.

92. Commencement. This Act shall come into operation on such date as the Governor-General may appoint by proclamation.

## SCHEDULE

(Section 31)

### PUBLIC CONTRACTS

1. The contractor, subcontractor, and assignees of contracts shall pay rates of wages and observe hours and conditions of employment which are not less favourable than those established in the trade or industry in the district where the work is carried on -

(a) by collective agreement or other machinery of negotiation between employers' organisations and trade unions representative of a substantial proportion of employers and workers in the trade or industry concerned; or

(b) by arbitration award.

2. Where no rates and conditions are established as stated in paragraph 1 for the district, established rates and conditions in other districts shall apply.

3. In the absence of any rates and conditions established as stated in paragraphs 1 or 2, the Labour Commissioner shall, after consulting with workers' and employers' representatives, prepare a schedule setting out fair and reasonable rates and conditions to be observed in the execution of the contract, having regard to established rates and conditions of persons employed in a capacity and in general circumstances similar to those of persons engaged in the contract or failing such established rates and conditions, any fair standard of rates and conditions commonly recognised in respect of persons employed in a similar capacity and similar general circumstances.

4. Before being placed on a list of Government contractors, or being allowed to tender for a Government contract, the contractor shall certify that the wages and conditions of employment of all those employed by the contractor in the trade or industry in which

the contractor is seeking to contract with the Government are fair and reasonable having regard to the provisions of paragraphs 1, 2 and 3.

5. Any dispute as to what wages and conditions of employment ought to apply shall be referred to the Labour Commissioner, who may refer it to an Arbitration Tribunal.

6. The contractor shall keep proper wage records and time sheets for all those employed in relation to the execution of the contract, and the contractor shall produce the wage records and time sheets for the inspection of any person authorised by the Labour Commissioner or a person authorized by him.

7. (i) The contractor shall post in a conspicuous place notices at the establishments and work places concerned with a view to informing the workers of their conditions of work.

8. The contractor shall effect sufficient insurance so as to pay compensation to workers under the Workmen's Compensation Act, Cap. 343.

9. A contractor is prohibited from subcontracting, transferring or assigning any portion of the work without the written approval of the Labour Commissioner.

10. A subcontractor shall be bound to conform to the conditions of the main contract and the main contractor shall be responsible for the observance of all contract conditions.

11. Contractors and subcontractors shall recognize the right of their workers to be members of the trade unions.

12. A contractor shall not be entitled to payment of any money which would otherwise be payable under the terms of the contract unless the contractor has filed together with the claim for payment a certificate -

(a) showing the rates of wages and hours of work of the various classes of workers employed in the execution of the contract;

(b) specifying any wages that remain in arrears;

(c) that all labour conditions of the contract have been duly complied with.

13. The contractor shall furnish to the Labour Commissioner any further details and evidence as the Labour Commissioner may deem necessary in order to be satisfied that the conditions of this schedule have been complied with.

14. In the event of a contractor defaulting in the payment of wages of any worker employed in respect of the execution of the contract and if a claim to that effect is filed

with the Labour Commissioner and adequately proved the Labour Commissioner may order payment to be made and failing payment by the contractor, arrange for payment of the claim to be made to the worker out of the amount owing under the contract and that amount shall be deemed to have been paid to the contractor.

15. Any contractor or subcontractor who fails to comply with any provisions of this schedule shall cease to be approved as a contractor or subcontractor for the period determined by the Labour Commissioner, with the consent of the Minister.