WORKERS' RIGHTS ACT

Act 20 of 2019 – 24 October 2019

(unless otherwise indicated)

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ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

1. Short title
2. Interpretation
3. Application of Act

PART II – MEASURES AGAINST DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

4. Application of Part II
5. Discrimination in employment and occupation
6. Consideration for full-time or permanent employment
7. Promotion

PART III – MINIMUM AGE FOR EMPLOYMENT

8. Restriction for employment of children
9. Employment of young persons

PART IV – WORK AGREEMENTS

Sub-Part I – Competency to Enter into Agreement

10. Competency to enter into agreement

Sub-Part II – Particulars of Work Agreement

11. Particulars of work agreement

Sub-Part III – Types of Work Agreements

12. Deeming agreement
13. Fixed term agreement
14. Part-time work agreement
15. Agreement to perform part-time or full-time work
16. Compromise agreement
17. Atypical work agreement

17A. Work from home

Sub-Part IV – Void Agreement

18. Void agreement

Sub-Part V – Employment of Worker Under an Agreement or More Than One Agreement Not Interrupted

19. Continuous employment

PART V – GENERAL CONDITIONS OF EMPLOYMENT
Sub-Part I – Hours of Work and Basic Hourly Rate
Section A – Hours of work
20. Normal working hours
21. Compressed hours
22. Flexitime
23. Shift work
24. Overtime
24A. Overtime in connection with COVID-19 period of year 2020
Section B – Basic hourly rate
25. Notional calculation of basic hourly rate
Sub-Part II – Remuneration
Section A – Equal remuneration for work of equal value
26. Equal remuneration for work of equal value
Section B – Remuneration to worker and part-time worker
27. Payment of remuneration to worker
28. Payment of remuneration to part-time worker
Section C – Joint liability of job contractor and employer as regards remuneration and obligations of labour contractor
29. Joint liability on remuneration
29A. Registration as labour contractor
29B. Obligations of labour contractor
29C. Liability of labour contractor and hirer employer
Section D – Remuneration in specific circumstances
30. Payment of remuneration for work performed on public holiday
31. Payment of remuneration due on termination of agreement
32. Payment of remuneration in other specific circumstances
33. Payment of additional remuneration
Section E – Additional remuneration to compensate increase in cost of living
33A. Payment of special allowance
Section EA – Special allowance
Section F – Restriction to deduct amount from worker's remuneration
34. Restriction of deduction
Sub-Part III – Failure to Pay Remuneration
Section A – Protective order
35. Application for protective order
36. Grant of protective order
37. Duration of protective order
38. Order in respect of immovable property
39. Variation and discharge of protective order
Section B – Wage Guarantee Fund Account
40. Wage Guarantee Fund Account
41. Payment into Wage Guarantee Fund Account
42. Redemption of claim
43. Recovery of overpayment of benefit

Sub-Part IV – Other Conditions of Employment
Section A – Meal allowance
44. Meal allowance
Section B – Entitlement to leaves
45. Annual leave
46. Sick leave
46A. Menstrual leave
47. Vacation leave
47A. Leave to care for child, parent, grandparent or spouse with healthcare-related issues
48. Special leave
49. Juror's leave
50. Leave to participate in international sport or cultural events
51. Leave to attend Court
51A. Remuneration and leave related to Covid-19 vaccination or RT-PCR Test
Section C – Entitlement to maternity and paternity leaves
52. Maternity leave and other benefits
52A. Childcare facilities
53. Paternity leave
Section D – End of year bonus
54. End of year bonus
Section E – Death grant
55. Death grant
Section F – Other benefits
56. Meal and tea breaks
57. Medical facilities
58. Tools
59. Transport of workers
60. Communication facilities
PART VI – TERMINATION OF AGREEMENT AND REDUCTION OF WORKFORCE
Sub-Part I – Procedures Relating to Termination of Agreement
61. Termination of agreement
62. Termination of appointment under the Constitution
63. Notice of termination of agreement
Protection against termination of agreement
65. Notification of charge
66. Suspension
67. Employment following transfer of undertaking
68. Certificate of employment
Sub-Part II – Severance Allowance
69. Payment of severance allowance
69A. Reinstatement
70. Amount of severance allowance
71. Deductions from severance allowance
Sub-Part III – Reduction of Workforce and Closure of Enterprises
72. Reduction of workforce
72A. Reduction of workforce in certain enterprises in the services sector

73. Redundancy Board
74. Functions of Board
75. Organisation and sitting of Board

PART VII – WORKFARE PROGRAMME FUND

Sub-Part I – Workfare Programme Fund

76. Establishment of Workfare Programme Fund
77. Objects of Workfare Programme Fund
78. Payment into and out of Workfare Programme Fund
79. Contribution to Workfare Programme Fund

Sub-Part II – Workfare Programme Fund Committee

80. Workfare Programme Fund Committee
81. Functions of Workfare Programme Fund Committee

Sub-Part III – Actuarial Valuation and Financial Statements of Workfare Programme Fund

82. Actuarial valuation of Workfare Programme Fund
83. Financial statements of Workfare Programme Fund

Sub-Part IV – Transition Unemployment Benefit, Industrial Injury Allowance and Recovery of Overpayment

84. Transition unemployment benefit
85. Industrial injury benefit
86. Recovery of overpayment
86A. Refund by employer
86B. Sharing of information

PART VIII – PORTABLE RETIREMENT GRATUITY FUND

87. Interpretation of Part VIII
88. Establishment of Portable Retirement Gratuity Fund
89. Object of Portable Retirement Gratuity Fund
90. Eligibility to join Portable Retirement Gratuity Fund
90A. Issue of certificate
91. Administration of Portable Retirement Gratuity Fund
92. Payment into and out of Portable Retirement Gratuity Fund
93. Individual account in respect of every worker or self-employed
94. Contributions to Portable Retirement Gratuity Fund
95. Contributions for past services
95A. Contributions for past length of service in other circumstances
96. Shortfall or surplus of contributions
97. Joint liability of employer and job contractor to pay contributions
98. Circumstances in which gratuity may be granted
99. Payment of gratuity in case of employment with same employer
100. Payment of gratuity in case of employment with one or more employers
100A. Computation of gratuity or lump sum
101. Recovery of contribution by Director-General
102. Information to be furnished to Director-General and administrator
103. Remittance of contributions by Director-General
104. Establishment of Portable Retirement Gratuity Fund Advisory Committee
105. Investment Committee
106. Audited accounts of Portable Retirement Gratuity Fund

107. Statement of account
108. Surcharge and interests on late contributions
PART IX – GRATUITY ON RETIREMENT AND AT DEATH
Sub-Part I – Gratuity on Retirement
109. Gratuity on retirement
Sub-Part II – Gratuity at Death
110. Gratuity at death
PART X – ENTITLEMENT OF WORKERS IN SUGAR INDUSTRY
111. Interpretation of Part X
112. Continuous employment of existing workers in sugar industry
113. Workers employed by job contractor
PART XI – VIOLENCE AT WORK
114. Violence at work
PART XII – ADMINISTRATION
115. Register of employers
116. Keeping of records
117. Labour inspection
118. Power to make enquiries
119. Power to summon
120. Complaint procedure
121. Notice of compliance
PART XIII – MISCELLANEOUS
122. Protection from liability
123. Offences
124. Regulations
125. Repeal
126. Consequential amendments
127. Savings and transitional provisions
128. Commencement
FIRST SCHEDULE
SECOND SCHEDULE
THIRD SCHEDULE
FOURTH SCHEDULE
FIFTH SCHEDULE
SIXTH SCHEDULE
SEVENTH SCHEDULE
EIGHTH SCHEDULE

WORKERS' RIGHTS ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Workers' Rights Act 2019.

2. Interpretation

In this Act –

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

"basic wage or salary", in relation to a worker, means –

(a) where the terms and conditions of employment of the worker are governed by Remuneration Regulations, an arbitral award or an agreement, the basic wage or salary prescribed in the corresponding Remuneration Regulations or Wages Regulations, award or agreement, or where the employer pays a higher wage or salary, the higher wage or salary so paid excluding payment for overtime, any bonus or allowance, by whatever name called, paid over and above the wage or salary and whether paid in cash or in kind;

[Amended 7/2020 (cio 7/8/2020).]

(b) in any other case, all the emoluments received by the worker, excluding payment for overtime, any bonus or allowance, by whatever name called;

[Amended 7/2020 (cio 7/8/2020).]

"Board" means the Redundancy Board referred to in section 73;

"child" means a person under the age of 16;

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

"continuous employment" means the employment of a worker under an agreement or under more than one agreement where the interval between an agreement and the next agreement does not exceed 28 days;

"Court" means the Industrial Court;

"Director-General" has the same meaning as in the Mauritius Revenue Authority Act;

"earnings" –

(a) means basic wages specified in any Remuneration Regulations or

Wages Regulations or such wages paid by an employer; and

(b) includes –

(i) wages earned pursuant to sections 24, 27(5), 30 and 40;

(ii) wages paid under sections 14, 17, 21, 22, 23, 28, 31, 32, 33, 45, 46, 47, 48, 49, 50, 51, 52(1), (4), (5) and (6) and 53;

(iii) any sum of money, by whatever name called, including commission and any productivity payment, paid to a worker, in respect of any work performed by him, in addition to the basic wages agreed upon between him and the employer; and

(iv) any payment made under any Remuneration Regulations or Wages Regulations in respect of extra work, public holidays, additional remuneration, leave taken or refunded, wages for replacing another worker drawing higher remuneration, or wages paid to a part-time or atypical worker, and any allowance paid under the Remuneration Regulations or Wages Regulations;

[RR 7/2020 (cio 7/8/2020).]

"emoluments" means any payment in money or money's worth which is salary, wages, leave pay, fee, overtime pay, perquisite, allowance, bonus, gratuity, commission or other reward or remuneration, by whatever name called, in respect of, or in relation to, the office or employment of a worker;

"employer", subject to sections 72, 111 and 115 –

(a) means a person who employs a worker and is responsible for the payment of remuneration to the worker; and

(b) includes –

(i) a job contractor;

(ii) a person, other than a share worker, who shares the profit or gross earnings of another share worker;

"financial year" means the period of 12 months ending on 30 June in any year;

"fortnight" means any period of 14 consecutive days;

"good and sufficient cause" includes –

(a) illness or injury certified by a medical practitioner;

(b) absence authorised by the employer;

(c) absence due to participation in a lawful strike;

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

"hirer employer" means an employer to whom a labour contractor has supplied a migrant worker to work for a period agreed between the labour contractor and the hirer employer;
[Inserted 11/24 (cio 27/7/24).]

"insolvent" means being placed into receivership, under administration or in liquidation;
[Amended 15/22 (cio 1/7/22).]

"job contractor" means a person who employs a worker to perform any work or service that the person has contracted to do or provide for another person;

"labour contractor" means a person who is engaged in the recruitment and supply of a migrant worker to work with a hirer employer;
[Inserted 11/24 (cio 27/7/24).]

"local authority" has the same meaning as in the Local Government Act;

"migrant worker" means a worker to whom a permit has been issued under the Non-Citizens (Employment Restriction) Act;
[Inserted 11/24 (cio 27/7/24).]

"Minister" means the Minister to whom responsibility for the subject of labour and employment relations is assigned;

"Ministry" means the Ministry responsible for the subject of labour and employment relations;

"night work" means any period, whether in shift or otherwise, during which a worker is required to work or to remain at his workplace for at least 5 consecutive hours between 6 p.m. and 6 a.m.;

"non-citizen" has the same meaning as in the Non-Citizen (Employment Restriction) Act;

"notional hourly rate" means the hourly rate calculated in accordance with section 25;

"officer" means an officer designated by the supervising officer;

"part-time worker" means a worker whose normal hours of work are less than the stipulated hours;
[R 12/2023 (cio 20/7/2023).]

"past service" means service with an employer from the period commencing on the date a worker is employed by the employer up to the date preceding the date prescribed under section 94;
[Amended 1/2020 (cio 23/3/2020).

"pay period" means the period during which remuneration is paid under section 27;

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

"productivity payment" –

(a) means any sum of money, by whatever name called, paid to any category of worker in respect of work performed by him over and above or in addition to the basic work agreed upon between him and his employer, and related to productivity; but

(b) does not include payment of attendance bonus equivalent to a maximum of 10 per cent of the worker's basic wages, meal allowance, transport allowance or any other allowances or payment not related to productivity;

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

"public officer" has the same meaning as in the Constitution;

"remuneration", subject to section 40(3) –

(a) means all emoluments, in cash or in kind, earned by a worker under an agreement; and

(b) includes –

(i) any sum paid by an employer to a worker to cover expenses incurred in relation to the special nature of his work;

(ii) any money to be paid to a job contractor for work by the person employing the job contractor; and

(iii) any money due as a share of profits;

"Remuneration Regulations" or "Wages Regulations" has the same meaning as in the Employment Relations Act;

"retirement age" means the date on which a worker attains the age of 65;

"seed capital" means an amount funded from the Workfare Programme Fund to provide for default payment of wages, unpaid contribution under sections 94 and 95, for partial payment of contributions for SMEs and for any other purpose as may be prescribed;
[Amended 7/2020 (cio 7/8/2020).]

"severance allowance" means an amount calculated in accordance with section 70;

"share worker" means a person who –

(a) is remunerated, wholly or partly, by a share in the profits of the enterprise for which he works, or gross earnings of an enterprise obtained from the work done by him; but

(b) is not the owner of the main equipment, premises and materials used in the enterprise for which he works;

"shift work" means work organised in 2 or more shifts during a period of 24 consecutive hours;

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

"SME" has the same meaning as in the Small and Medium Enterprises Act 2017;

"stipulated hours" means the hours of work specified in section 20(1)(a) and (b) and (4)(a) or such lesser number of hours of work as may be specified in an agreement;

"supervising officer" means the supervising officer of the Ministry;

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

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

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

"Transition Unemployment Benefit" means the unemployment benefit referred to in section 84;

"Tribunal" means the Employment Relations Tribunal established under the Employment Relations Act;

"undertaking" includes –

(a) any economic, technical, commercial, financial or service activities by way of trade or business, whether or not the trade or business is carried out for profit, in which workers are employed and the objective is to produce or provide market commodities or services of any kind;

(b) any Ministry or Government department, statutory body, local authority, and any other form of organisation or body of persons or any part thereof;

(c) a branch of an undertaking;

"week" means any period of 7 consecutive days;

"week day" means any day other than a public holiday;

"worker", subject to sections 17, 54, 84, 85, 87, Part IX and section 111 –
[Amended 7/2020 (cio 7/8/2020).]

(a) means a person who enters into, or works under, an agreement or a contract of apprenticeship, other than a contract of apprenticeship regulated under the Mauritius Institute of Training and Development

Act, whether by way of casual work, manual labour, clerical work, or otherwise, and however remunerated; and
[Amended 15/22 (cio 1/7/22).]

(b) includes –

(i) a part-time worker;

(ii) a former worker, where appropriate;
[Amended 15/22 (cio 1/7/22).]

(iii) a share worker; and
[Amended 15/22 (cio 1/7/22).]

(iv) a person, other than a consultant, who is classified by an employer as a service provider or by any other such appellation, whether or not he holds a business registration number, but who performs personally the same or similar work of a comparable worker employed in the same enterprise or industry; but
[Added 15/22 (cio 1/7/22).]

(c) does not include –

(i) a job contractor;

(ii) a person taking part in a training scheme set up by the Government or under a joint public-private initiative with a view to facilitating the placement of jobseekers in gainful employment;

(iii) except in relation to sections 5, 17A, 26, 32(1), (1A), (4), (5), (6)(a) and (7), 34, 46A, 49, 50, 51A, 52, 53, 57, 59(7) and 120 and Parts VI, VII, VIII and XI, a person whose basic wage or salary is at a rate exceeding 600,000 rupees in a year;
[Amended 1/2020 (cio 23/3/2020); 7/2020 (cio 7/8/2020); 15/21 (cio 5/8/21); 15/22 (cio 1/7/22); 12/2023 (cio 20/7/2023); 13/26 (cio 13/8/26).]

(iii) a person performing atypical work whose basic wage or salary exceeds 600,000 rupees in a year, except in relation to sections 5, 26, 31 and 51A and Parts VI, VII, VIII, XI, XII and XIII;
[Amended 7/2020 (cio 7/8/2020); 15/21 (cio 5/8/21).]

"year" means any period of 12 consecutive months;

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

[S. 2 amended by s. 57(a) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 27 July 2024; s. 59 of Act 13 of 2026 w.e.f. 13 August 2026.]

3. Application of Act

(1) Subject to subsection (2) and to any provisions to the contrary in any other enactment, this Act shall apply to every agreement.

(2) This Act shall not apply to –

(a) a public officer or a local government officer, except in relation to sections 5, 26, 114, 118, 119, 120 and 123(1)(f), (2), (3) and (4);

(b) a worker of a statutory body who is, or has opted to be, governed by the terms and conditions in a report of the Pay Research Bureau, except in relation to –

(i) sections 5, 26(1), 51A, 118, 119, 120 and 123(1)(f), (2), (3) and (4), in so far as they relate to that worker; and
[Amended 7/2020 (cio 7/8/2020); 15/21 (cio 5/8/21).]

(ii) Parts VI and XI;

(c) a worker who is employed on terms and conditions specified in a report of the Pay Research Bureau, except in relation to –

(i) sections 5, 26(1), 51A, 118, 119, 120 and 123(1)(f), (2), (3) and (4), in so far as they relate to that worker; and

(ii) Parts VI and XI;
[RR 7/2020 (cio 7/8/2020); amended 15/21 (cio 5/8/21).]

(d) an atypical worker whose basic wage or salary exceeds 600,000 rupees in a year, except in relation to –

(i) sections 5, 26, 31 and 51A; and

(ii) Parts VI, VII, VIII, XI, XII and XIII;
[RR 15/21 (cio 5/8/21).]

(e) a worker who works from home and whose basic wage or salary exceeds 600,000 rupees in a year, except in relation to –

(i) sections 5, 26, 31 and 51A; and

(ii) Parts V, VI, VII, VIII, XI, XII and XIII.

[Added15/21 (cio 5/8/21).]

(3) Nothing in this Act shall –

(a) prevent an employer from –

(i) remunerating a worker at a rate higher than that provided for in any Remuneration Regulations or Wages Regulations; or

(ii) providing the worker with conditions of employment which are more favourable than those specified in any Remuneration Regulations or in this Act; or

(b) authorise an employer –

(i) to reduce the wages of a worker; or

(ii) subject to section 57 of the Employment Relations Act, to alter the conditions of employment of the worker so as to make them less favourable.

[S. 3 amended by s. 3(aa) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021.]

PART II – MEASURES AGAINST DISCRIMINATION IN EMPLOYMENT AND OCCUPATION

4. Application of Part II

This Part shall be in addition to, and not in derogation from, the Equal Opportunities Act.

5. Discrimination in employment and occupation

(1) (a) No employer shall treat, in a discriminatory manner, any worker who is in his employment.

(b) No prospective employer shall treat a person in a discriminatory manner in respect of access to employment.

(2) Any distinction, exclusion or preference in respect of a particular occupation based on the inherent requirements of the occupation shall not be deemed to be discrimination.

(3) A person does not discriminate against another person by imposing or proposing to impose on that other person a condition, requirement or practice that has or is likely to have a disadvantaging effect, where the condition, requirement or practice is reasonable in the circumstances.

(4) The matters to be taken into account in determining whether or not a condition, requirement or practice is reasonable in the circumstances include –

(a) the nature and extent of the disadvantage resulting or likely to result, from the imposition or proposed imposition of the condition, requirement or practice;

(b) the feasibility of overcoming or mitigating the disadvantage; and

(c) whether the disadvantage is proportionate to the result sought to be achieved by the person who imposes, or proposes to impose, the condition, requirement or practice.

(5) In this section –

"discrimination" includes affording different treatment to –

(a) different workers attributable, wholly or mainly, to their respective description by age, race, colour, caste, creed, sex, sexual orientation, gender, HIV status, impairment, marital or family status, pregnancy, religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

[Amended 7/2020 (cio 7/8/2020).]

(aa) workers on maternity or paternity leave, which has the effect of impairing their career development or their opportunity of promotion;

[Inserted 11/24 (cio 27/7/24).]

(b) workers of a subsidiary company performing work of equal value as a worker employed by another subsidiary company of the parent company or the parent company, operating in the same line of business, on less favourable salary, terms and conditions of employment;

"employment" or "occupation" includes access to vocational training, to employment and to particular occupations, and terms and conditions of employment.

[S. 5 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

6. Consideration for full-time or permanent employment

(1) Where a vacancy occurs in the full-time or permanent workforce of an employer, priority of consideration for the full-time employment shall be given, as far as practicable, to a part-time worker or to a worker on determinate contract of employment in the same category and grade.

(2) Where 2 or more workers are eligible under subsection (1), the employer shall make an offer to the more suitable worker, having regard to qualifications, merit, experience, performance and seniority.

7. Promotion

(1) Where a vacancy arises in a higher grade, an employer shall, in the case of higher grade promotion among monthly paid workers, give consideration, as far as practicable, to qualification, merit and seniority.

(2) Every employer shall post up in a conspicuous place a notice of any vacancy which may be seen by every worker at least 5 days before the promotion or selection exercise, as the case may be, is carried out.

PART III – MINIMUM AGE FOR EMPLOYMENT

8. Restriction for employment of children

(1) No person shall employ a child for employment or work in any occupation.

(2) For the purpose of subsection (1), a child shall not be considered to be employed for employment or work where, during school holidays or outside school hours, the child remains at the place of work of his parent or assists his parent in a

family business in a light job which is not harmful to his health or his development or prejudicial to his participation in a vocational orientation or training programme.

[S. 8 came into operation on 24 October 2019.]

9. Employment of young persons

(1) No person shall employ, or continue to employ, a young person –

(a) in work which, by its nature, or the circumstances in which it is carried out, is likely to jeopardise his health, safety, or physical, mental, moral or social development; or

(b) after being notified in writing by the supervising officer that the kind of work for which he is employed is unsuitable, or is likely to interfere with his education.

(2) Every employer shall keep a record of every young person employed by him, stating, in the record, his full name, address, date of birth and such other details as may be prescribed.

PART IV – WORK AGREEMENTS

Sub-Part I – Competency to Enter into Agreement

10. Competency to enter into agreement

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

Sub-Part II – Particulars of Work Agreement

11. Particulars of work agreement

Every employer shall provide to every worker engaged for more than one month, a written statement of particulars of employment in the form set out in the First Schedule, or in such other form as may be prescribed, in the French or Creole language, within 14 days of the completion of the first calendar month, and a copy of the statement shall be submitted to the supervising officer within 30 days.

Sub-Part III – Types of Work Agreements

12. Deeming agreement

Where a worker is –

(a) required to report at, or is conveyed to, a place of work by his employer or agent of the employer; and

(b) found fit and willing to perform the work for which he was required to report or conveyed,

the worker and the employer shall be deemed to have entered into an agreement.

13. Fixed term agreement

(1) Notwithstanding subsection (4), an employer may enter into an agreement with a worker for a specified period of time in relation to the temporary needs of the employer –

(a) for the performance and completion of a specific piece of work which is temporary and non-recurring;

(b) in respect of any work or activity which is of a temporary, seasonal or short-term nature or short-term work arrangements that are normally project related and aligned to changes in the product market;

(c) in replacement of another worker who is on approved leave or suspended from work;

(d) for the purpose of providing training to the workforce;

(e) for a specific training contract; or

(f) in accordance with a specific work or training scheme set up by the Government or a statutory body for a determinate duration.

(2) Subsection (1) shall not apply to –

(a) the exclusion of limitations of the rights of a worker; or

(b) the deprivation of the right of a worker to permanent employment.

(3) Where a worker is employed on a fixed term contract, the worker shall be informed in writing by his employer of the specific skills required, the specific tasks to be carried out and the duration thereof.

(4) A worker, other than a migrant worker, who is employed in a position which is of permanent nature, shall not be employed on a contract of fixed duration for the performance of work relating to the fixed, recurring and permanent needs of the continuous normal business activity of the employer.

(5) Where a worker is employed on a fixed term contract, his terms and conditions of employment shall not be less favourable than those of a worker employed on an indeterminate contract performing the same or similar work, having regard where relevant, whether they have a similar level of qualifications, skills or experience.

(6) A worker employed on a fixed term contract shall be deemed to be in continuous employment where there is a break not exceeding 28 days between any 2 fixed term contracts.

(7) An employer shall inform a worker employed on a fixed term contract of any vacancy of a permanent nature in the same category and grade to his current employment.

14. Part-time work agreement

(1) A full-time worker is considered as a comparable full-time worker in relation to a part-time worker where –

(a) both workers are –

(i) employed by the same employer and based at the same establishment; and

(ii) engaged in the same or broadly similar work having regard, where relevant, to whether they have a similar level of qualification, skills and experience; or

(b) there is no full-time worker in the same establishment, but there is a comparable full-time worker based at a different establishment.

(2) A part-time worker shall not be treated by his employer less favourably than a comparable full-time worker –

(a) as regards the terms of his contract; or

(b) by being subjected to any other detriment by his employer.

(3) In determining whether a part-time worker has been treated less favourably than a comparable full-time worker, the pro rata principle in terms of hours of work shall be applied.

(4) Where a part-time worker is paid remuneration for extra work in a period at a rate lower than the rate payable to a comparable full-time worker who performs extra work in the same period, he shall not be regarded as being treated less favourably than the comparable full-time worker to the extent that the total number of hours worked by the part-time worker in the period, including overtime, does not exceed the number of hours the comparable full-time worker is required to work in the period, excluding absences from work and overtime.

(5) Where a worker employed on a part-time contract considers that he should have been classified as a full-time worker, he may apply to the Court for an order to that effect.

(6) In this section –

(a) a worker is a full-time worker where he is paid by reference to the time he works, whether on normal or stipulated hours, and having regard to the custom and practice of the employer in relation to workers employed by the employer under the same type of contract; and

(b) a worker is a part-time worker where he is paid by reference to the time he works and, having regard to the custom and practice of the employer in relation to a comparable full-time worker.

15. Agreement to perform part-time or full-time work

(1) A full-time worker may enter into an agreement with an employer to perform part-time work where the agreement –

(a) is in writing and for a specified period of time; and

(b) provides for the option to the worker to revert to full-time work at the expiry of the specified period of the part-time work.

(1A) Notwithstanding subsection (1), where a full-time worker enters into an agreement referred to in subsection (1) during the period starting on 1 June 2020 and ending on 31 December 2020 or such other period as may be prescribed, the agreement shall –

(a) be in writing and for a period not exceeding 3 months; and

(b) provide an option to the worker to revert to full-time work –

(i) at the expiry of the period of 3 months; or

(ii) before the expiry of the period of 3 months with the consent of his employer.

[Inserted 7/2020 (cio 7/8/2020).]

(2) A part-time worker may enter into an agreement with an employer to perform full-time work where the agreement –

(a) is in writing; and

(b) where appropriate, provides for the option to the worker to revert to part-time work.

(3) (a) An employer shall not require a full-time worker to enter into an agreement to perform part-time work, except –

(i) where the agreement is in writing and for a specified period of time and provides an option to the worker to revert back to full-time work at the expiry of the specified period; and

(ii) with the approval of the supervising officer.

(b) The supervising officer may grant his approval under paragraph (a) on such terms and conditions as he may determine.

[Added 7/2020 (cio 7/8/2020).]

(4) (a) Where the employment of a worker referred to in subsection (1A) is terminated during the period where he is working on a part-time basis, the Court may, where it finds that the termination of the employment of the worker was

unjustified, order that the worker be paid severance allowance at the rate specified in section 70(1).

(b) Where the employment of a worker referred to in subsection (3) is terminated in breach of the terms and conditions of the approval granted under that subsection, the termination shall, subject to section 64, be unjustified and the Court may order that the worker be paid severance allowance at the rate specified in section 70(1).

(c) For the purpose of computing severance allowance payable under this subsection, a month's remuneration shall be –

(i) the remuneration drawn by the worker for the last complete month of his employment on a full-time basis; or

(ii) an amount computed in the manner as is best calculated to give the rate per month at which the worker was remunerated over a period of 12 months before the termination of his agreement, including payment for extra work, productivity bonus, attendance bonus, commission in return for services and any other regular payment,

whichever is higher.

[Added 7/2020 (cio 7/8/2020).]

(5) Where the employment of a worker is terminated under subsection (4) –

(a) any contribution due to be made to the Portable Retirement Gratuity Fund by the employer shall, notwithstanding section 87, be made; and

(b) any payment to which the worker is entitled under this Act or any other enactment shall be computed,

on the basis of the remuneration drawn by the worker for the last complete month of his employment on a full-time basis.

[Added 7/2020 (cio 7/8/2020).]

[S. 15 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

16. Compromise agreement

(1) Notwithstanding any provision to the contrary in the Code Civil Mauricien and any other enactment, where a worker and an employer agree to resolve a dispute concerning the amount of compensation or other related payments, by whatever name called, paid following a termination of employment, or the amount of remuneration payable in a case of non-payment or short payment of remuneration, the worker and the employer shall enter into a compromise agreement.

[RR 15/21 (cio 5/8/21); amended 15/22 (cio 1/7/22).]

(2) A compromise agreement shall not be valid where –

(a) the compromise agreement was not vetted by an independent adviser;

[Amended 15/21 (cio 5/8/21).]

(aa) the worker has not, prior to entering into the compromise agreement, received advice from a relevant independent adviser regarding the terms of the agreement and the effect of that agreement on his claim; or

[Inserted 15/21 (cio 5/8/21).]

(b) the independent adviser was a party to the matter for the employer.

(3) Where an employer fails to comply with a compromise agreement, any payment due to the worker under the agreement may be claimed in Court.

(3A) Subject to subsection (2), where a compromise agreement concerning termination of employment is made between a worker and an employer under subsection (1), the employer may deduct the contributions payable to the Portable Retirement Gratuity Fund from the amount payable under the compromise agreement.

[Inserted 7/2020 (cio 7/8/2020).]

(4) In this subsection (1) –

"relevant independent adviser" means –

(a) a qualified law practitioner;

(b) an officer or a member of a registered trade union;

(c) an officer of the Ministry.

[S. 16 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s.94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

17. Atypical work agreement

(1) Subject to section 3(2)(d), a person, other than a worker employed on a standard agreement, who performs work for, and is paid remuneration by, an employer, shall be deemed to be an atypical worker.

[Amended 15/21 (cio 5/8/21).]

(2) The Minister may, for the purpose of this section, make such regulations as he thinks fit.

(3) In this section –

"atypical worker" –

(a) means a person aged 16 years or more, who –

(i) is not employed under a standard agreement;

(ii) works for one or more employers concurrently and is remunerated, on a time-rate or piece-rate basis or otherwise, by the employer or employers, as the case may be, for the work performed; or

(iii) undertakes to perform personally any work for, or who offers his services to, another party to the contract;

(b) includes a person who –

(i) performs work brokered through an online platform or through such other similar services;

(ii) performs teleworking;

(iii) performs works through an information technology system;

[Amended 15/22 (cio 1/7/22).]

(iv) uses his personal equipment and tools to perform work or provide services;
[Amended 15/22 (cio 1/7/22); 11/23 (cio 10/8/23).]

(v) is classified by an employer as service provider, or by any other such appellation, whether or not he holds a business registration number, but who performs personally the same or similar work of a comparable worker employed in the same enterprise or industry on a standard agreement; or
[Added 15/22 (cio 1/7/22); 11/23 (cio 10/8/23).]

(vi) is registered as a professional in the Arts under the Status of the Artist Act 2023; but
[Added 11/23 (cio 10/8/23).]

(c) does not include –

(i) a self-employed –

(A) who holds a business registration number issued by the relevant authorities and personally operates a business or trade on his own account;

(B) whose business or trade activity is his sole or main source of income; or

(C) who employs another person to execute his work agreement;

(ii) any other person whose working status is that of a person operating his own business or trade;

(iii) a job contractor;
[Amended 15/22 (cio 1/7/22).]

(iv) a consultant.
[Added 15/22 (cio 1/7/22).]
[RR 15/21 (cio 5/8/21).]

[S. 17 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 28 of Act 11 of 2023 w.e.f. 10 August 2023.]

17A. Work from home

(1) An employer may require a worker to work from home provided that a notice of at least 48 hours is given to the worker.

(2) Notwithstanding any other enactment, a worker shall have the right to disconnect where he is required to perform work during unsocial hours, except in situations of emergency, or where the working hours of the worker correspond to the working hours in the market country served.

(3) Where a worker is required to work in circumstances specified in subsection (2), he shall, in addition to any payment due under any enactment, be paid a disturbance allowance equivalent to one time his hourly wage for every hour of work performed during the unsocial hours.

(4) The Minister may make such regulations as he thinks fit for the purpose of this section.

(5) in the section –

"disconnect" means to disengage from work and work-related communications;

"unsocial hours" means hours of work performed –

(i) between 1 p.m. on a Saturday and 6 a.m. on the ensuing Monday; and

(ii) between 10 p.m. on a weekday and 6 a.m. on the ensuing day;

"work-related communications" include emails, telephone calls, video calls or other means of sending and receiving messages.

[S. 17A inserted by s. 57(b) of Act 1 of 2020 w.e.f. 23 March 2020; repealed and replaced by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

Sub-Part IV – Void Agreement

18. Void agreement

(1) No worker shall be bound by virtue of an agreement to be responsible for an act or omission of any other person.

(2) No person shall enter into an agreement where remuneration is to be paid at intervals of more than one month.

(3) Any agreement which contains a provision inconsistent with subsection (1) or (2) shall, to the extent of the inconsistency, be void.

(4) Subject to section 57 of the Employment Relations Act, an agreement by a worker to relinquish any of his rights under this Act shall be void.

(5) Where a worker is required to perform task work or piece work, his employer or an agent of the employer shall, before the work is commenced, inform the worker of the nature of the task he is required to perform and the rate at which he shall be remunerated for that work.

Sub-Part V – Employment of Worker Under an Agreement or More Than One Agreement Not Interrupted

19. Continuous employment

The continuous employment of a worker shall not be deemed to have been interrupted –

(a) by the worker's absence from work –

(i) on any leave taken in accordance with this Act or any other enactment, an agreement, a collective agreement or an award;

(ii) due to suspension from employment;

(iii) by reason of participation in a strike which is not unlawful under the Employment Relations Act; or

(iv) with the consent of his employer;

(b) on account of the limited number of days worked as specified in the agreement of a part-time worker;

(c) where the worker has been detained pending a police enquiry and he has been released before a period of 60 days from the last day he worked; or

(d) where the worker ceases to be in the employment of one employer and enters the employment of another employer pursuant to section 67.

PART V – GENERAL CONDITIONS OF EMPLOYMENT

Sub-Part I – Hours of Work and Basic Hourly Rate

Section A – Hours of work

20. Normal working hours

(1) Subject to subsection (2) and to any other enactment, the normal working week for every worker, other than a part-time worker or *garde malade* shall consist of 45 hours of work, excluding time allowed for meal and tea breaks, made up as follows –

(a) where the worker is required to work on 5 days in a week, 9 hours' work on any 5 days of the week, other than a public holiday;

(b) where the worker is required to work on 6 days in a week –

(i) 8 hours' work on any 5 days of the week other than a public holiday; and

(ii) 5 hours' on one other day of the week other than a public holiday.

(2) Subject to the operational requirements of the employer, the normal working week of any worker may begin on any day of the week.

(3) No worker, other than a *garde malade*, shall, except in special circumstances and subject to in any other enactment, be required to work for more than 12 hours per day.

(4) The normal day's work of a *garde malade*, other than a part-time worker –

(a) shall consist of 12 hours' actual work, excluding time allowed for meal and tea breaks; and

(b) may begin on any day of the week, whether a public holiday or not.

(5) (a) A worker shall be entitled to a rest day of at least 24 consecutive hours in every period of 7 consecutive days.

(b) Subject to paragraph (c), the rest day referred to in paragraph (a) shall be a Sunday.

(c) Where, by nature of his operational requirements, an employer operates on a 7-day week, the rest day shall, at least twice a month, be a Sunday.

(6) No person shall employ a young person in an undertaking between 10 p.m. and 5 a.m.

(7) Every worker shall be entitled to a rest of not less than 11 consecutive hours in any day.

(8) Where, by his agreement a worker is required to work for 6 days in a week as provided in subsection (1)(b), the employer shall pay the worker a full day's remuneration on the day on which the worker is required to stop work after 5 hours' work as agreed upon between him and his employer.

21. Compressed hours

(1) Where an employer requires a worker to perform piece work, task work or work of a similar method of work, the worker shall be deemed to have performed a day's or a week's work where he completes the piece work, task work or other work within a shorter period of time and he shall be paid wages due for the whole day or week, as the case may be.

[Amended 12/2023 (cio 20/7/2023).]

(2) Notwithstanding section 20(1) –

(a) an employer may, with the consent of a worker, require the worker to work for the stipulated hours, in any week, on a 4 days' week basis, provided a notice of at least 48 hours is given to the worker; or

(b) a worker may make a request to his employer to work for the stipulated hours on a 4 days' week basis and the employer shall, subject to his operational requirements, grant the request.

[Added 12/2023 (cio 20/7/2023).]

(3) Notwithstanding section 24(3) and (4), where a worker who works on a 4 days' week basis under subsection (2) –

(a) works on a public holiday, the employer shall remunerate him in respect of any work done for –

(i) the first 8 hours, at twice the basic rate; and

(ii) every subsequent hour, at 3 times the basic rate;

(b) performs more than 45 hours' work in any week, not being hours of work referred to in paragraph (a), the employer shall remunerate him at one and a half times the basic rate for every additional hour of work.

[Added 12/2023 (cio 20/7/2023).]

(4) For the purpose of computation of the number of hours of extra work performed under subsection (3)(b), any authorised leave, whether with or without pay, including injury leave, shall be deemed to constitute attendance at work.

[Added 12/2023 (cio 20/7/2023).]

[S. 22 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

22. Flexitime

(1) An employer may request a worker to work on flexitime provided a notice of at least 48 hours is given to the worker.

[Amended 1/2020 (cio 23/3/2020).]

(2) Where an employer makes a request under subsection (1), the worker may accede to that request.

(3) Subject to subsection (5), a worker shall be entitled to request to work on flexitime.

[Amended 1/2020 (cio 23/3/2020).]

(4) Where a worker makes a request to work on flexitime, his employer shall inform him, in writing within 21 days of the date of the request, whether or not it has been granted.

(5) The employer shall, unless there are reasonable business grounds to refuse, grant the request.

(6) Where a worker is entitled to work on flexitime, the employer shall establish –

(a) a core period of the day during which the worker shall be at work; and

(b) a period of time within which work shall be performed.

(6A) Subject to section 28, an employer may employ a worker to work on flexible arrangements on a part-time basis for such number of hours as the employer and the worker may agree.
[Inserted 12/2023 (cio 20/7/2023).]

(7) In this section –

"reasonable business grounds" means –

(a) an inability to reorganise work; or

(b) a detrimental impact on quality or performance.
[Amended 1/2020 (cio 23/3/2020).]

[S. 22 amended by s. 57(c) of Act 1 of 2020 w.e.f. 23 March 2020; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.].]

23. Shift work

(1) Subject to this Act, an employer may request a worker to work on shift work.

(2) An employer shall not, without a worker's consent, require a worker to work on shift work –

(a) for more than 8 hours in a day;

(b) at night on more than 5 consecutive nights, except in such sector or industry as may be prescribed.

(3) Where a female worker who may be required to perform night shift work produces a medical certificate certifying that she is pregnant, her employer shall not require her to perform night shift work during a period of at least 8 weeks before confinement.

(4) Shift work shall be scheduled on a monthly basis.

(5) (a) A copy of the monthly schedule of duty worked out on a roster basis indicating the date and time at which a worker shall attend duty shall be handed over to the worker.

(b) The monthly schedule of duty shall be posted up in a conspicuous place at the place of work at least one week before the schedule is due to take effect and a copy thereof handed to each worker concerned.

(6) Where a worker is employed on shift work, he shall be paid an allowance of 15 per cent of his basic wage in addition to his normal day's wage for work performed during night shift.

(7) Notwithstanding subsection (6), a worker who is employed on shift work shall, from the commencement of this subsection and until such further period as may be prescribed, not be entitled to any allowance for work performed on night shift.

[Added 1/2020 (cio 23/3/2020).]

[S. 23 amended by s. 57(d) of Act 1 of 2020 w.e.f. 16 May 2020.]

24. Overtime

(1) Subject to subsections (3) and (4) –

(a) a worker and an employer may agree on the number of hours of work to be performed in excess of the stipulated hours where the exigencies of an enterprise so require;

(b) no employer shall require a worker to perform work in excess of the stipulated hours unless he has given, as far as is practicable, at least 24 hours' notice to the worker of the extra work to be performed.

(2) A worker who does not wish to work in excess of the stipulated hours on a particular day shall, at least 24 hours in advance, notify his employer of his intention.

(3) Subject to subsection (5), where a worker works on a public holiday, the employer shall remunerate him in respect of any work done –

(a) during normal working hours, at not less than twice the rate at which the work is remunerated when performed during the normal hours on a week day;

(b) after normal working hours, at not less than 3 times the rate at which the work is remunerated when performed during the normal hours on a week day.

(4) Subject to subsection (5), where a worker works on a week day for more than the normal working hours, the employer shall, in respect of the extra

work, remunerate the worker at not less than one and a half times the rate at which the work is remunerated when performed during the normal hours.

(4A) (a) A worker may, in lieu of remuneration under subsection (3) or (4), opt to be granted in any pay period paid time off.

(b) The number of hours of time off under paragraph (a) shall be in accordance with the rate specified in subsection (3) or (4), as the case may be.
[Inserted 11/24 (cio 27/7/24).]

(5) An agreement shall stipulate that the remuneration provided for in the agreement includes payment for work on public holidays and overtime where –

(a) the maximum number of public holidays; and

(b) the maximum number of hours of overtime on week days and public holidays,

covered by the remuneration are specified in writing in the agreement.

(6) For the purpose of subsection (5), the monthly or hourly basic salary shall be clearly specified in the agreement.

(7) Subject to subsection (4), where a worker is required to perform extra work immediately after a normal day's work, he shall be granted a rest period of at least 10 minutes with pay before performing the extra work.

(7A) For the purpose of computation of the number of hours of extra work performed under this section, any authorised leave, whether with or without pay, including injury leave, shall be deemed to constitute attendance at work.
[Inserted 12/2023 (cio 20/7/2023).]

(8) In this section –

"normal hours" includes stipulated hours.

[S. 24 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

24A. Overtime in connection with COVID-19 period of year 2020

[Amended 15/21 (cio 5/8/21).]

(1) Notwithstanding any provision to the contrary in section 24, where a worker, other than a watchperson, employed in any of the sectors specified in the

Ninth Schedule, works from the commencement of this section and until such further period as may be prescribed, the worker maybe –

(a) remunerated for any work which is performed –

(i) on a public holiday, at not less than twice the basic hourly rate for every hour of work;

(ii) in excess of 45 hours or such lesser number of agreed hours of work in any week, not being hours of work referred to in subparagraph (i), at not less than one and a half times the basic hourly rate per hour for every additional hour of work performed; or

(b) granted in any pay period, in lieu of remuneration under paragraph (a), such number of hours of paid time-off calculated in accordance with the rate at which remuneration is paid under that paragraph.

(2) (a) Paid time off in any pay period may be granted to a worker by the employer or at the request of the worker.

(b) Where a worker has not been granted paid time off wholly or partly under paragraph (a), any outstanding period of time off shall be accumulated up to the date the worker ceases, in any manner whatsoever, to be in the employment of the employer or 31 December 2021 or such other date as may be prescribed, whichever is applicable.

(3) Where a worker cannot avail himself of the total number of hours of time off accumulated under paragraph (2)(b), he shall be paid remuneration in lieu of any time off left at the rate specified in subsection (1)(a) and such payment shall be made at the time the worker ceases, in any manner whatsoever, to be in the employment of the employer or as at 31 December 2021 or such other date as may be prescribed, whichever is applicable.

(4) For the purpose of computing the additional hours of work under paragraph (1)(a), any authorised leave, whether with or without pay, including injury leave, shall be deemed to constitute attendance at work.

(5) This section shall apply for the COVID-19 period of year 2020.
[added 15/21 (cio 5/8/210.]

[S. 24A inserted by s. 57(d) of Act 1 of 2020 w.e.f. 16 May 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021.]

Section B – Basic hourly rate

25. Notional calculation of basic hourly rate

(1) For the purpose of determining the basic hourly rate due for extra work performed by a full-time worker or any other reason, except where expressly provided in an enactment –

[Amended 12/2023 (cio 20/7/2023).]

(a) a month for a full-time worker shall –

(i) in the case of a *garde malade*, be deemed to consist of 312 hours of work;

(ii) for any other worker, be deemed to consist of 195 hours of work;

[RR 12/2023 (cio 20/7/2023).]

(b) a day shall be deemed to consist of –

(i) 8 hours' work in the case of a worker employed on a 6-day week;

(ii) 9 hours' work in the case of a worker employed on a 5-day week; or

(iii) 12 hours' work in the case of a *garde malade.*

(2) The notional calculation of –

(a) the basic hourly rate of a full-time worker shall be in accordance with the following formula –

(i) $H = \frac{M}{312}$, for a *garde malade*;

(ii) $H = \frac{M}{195}$, for other every worker,

where –

"H" means the basic hourly rate; and

"M" means the prescribed monthly wage, or where wages are not prescribed, the monthly agreed wage payable;

(b) the basic hourly rate of a part-time worker shall –

(i) where the monthly wages are prescribed, be computed in accordance with paragraph (a);

(ii) where the monthly wages are agreed, be in accordance with the following formula –

$$H = \frac{Mx12}{52xDxN}$$

where –

"D" means the number of working days per week;

"H" means the basic hourly rate;

"M" means the agreed monthly wage;

"N" means the number of working hours per day.

[Inserted 12/2023 (cio 20/7/2023).]

[S. 25 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

Sub-Part II – Remuneration

Section A – Equal remuneration for work of equal value

26. Equal remuneration for work of equal value

(1) (a) Every employer shall ensure that the remuneration of a worker shall not be less favourable than the remuneration of another worker performing work of equal value.

(b) Where an employer has recourse to the services of a job contractor, the job contractor shall ensure that the remuneration of any worker employed by him shall not be less favourable than the remuneration of a worker employed by the principal employer and performing work of equal value.

(2) The following criteria shall apply in determining whether there exists an element of discrimination, based on the sex of a worker or between workers of the same sex for any work or class of work payable under any agreement –

(a) the rates and types of remuneration shall be based on an objective job evaluation of the work performed instead of on the worker's sex or personal attributes;

(b) any job classification system shall be based on objective criteria irrespective of the worker's sex;

(c) the work of a worker of the same or different sex shall be given the same value for a like job or a work rated as equivalent in the same employment;

(d) for work which is not exclusively or predominantly performed by female workers, the extent to which –

(i) the work or class of work calls for the same, or substantially similar degrees of skill, effort and responsibility; and

(ii) the conditions under which the work is to be performed are the same or similar;

(e) for work which is exclusively or predominantly performed by female workers, the rate of remuneration that would be paid to male workers with the same or substantially similar skill, responsibility, and service performing the work under the same or substantially similar conditions and with the same or substantially similar degree of effort.

Section B – Remuneration to worker and part-time worker

27. Payment of remuneration to worker

(1) Every employer shall pay remuneration to a worker at monthly intervals, unless the parties agree to payment at shorter intervals.

(2) Every employer shall pay remuneration directly to every worker –

(a) in legal tender only, unless there is a written agreement between the parties for payment by cheque or into the worker's individual bank account;

[Amended 12/2023 (cio 20/7/2023).]

(b) during working hours at the place of work, when paid in legal tender or by cheque; and

(c) in any other case not later than on the last working day of the pay period.

(3) Every employer shall –

(a) issue to every worker, at the time of paying remuneration, a payslip, in the form set out in the Second Schedule, which shall indicate the contribution made by the employer to the Portable Retirement Gratuity Fund specified in Part VIII; and

(b) cause every worker, to whom remuneration is paid in legal tender or by cheque, to sign in or affix his thumbprint in a remuneration book setting out the particulars of the remuneration paid.

(4) No employer shall, in respect of the payment of remuneration –

(a) restrict, by agreement or otherwise, the freedom of a worker to determine where and how his remuneration is to be spent; or

(b) pay, require or permit remuneration to be paid in a shop, or cause or allow the owner of the shop or his representative or any person employed by him, to pay remuneration due to the worker, unless the worker is employed to work in the shop.

(5) Where a worker is required to replace another worker drawing a higher remuneration and to perform the same level of work as the other worker, he shall be paid the remuneration corresponding to the initial salary in the salary scale, if any, of the other worker or the salary drawn by the other worker, whichever is applicable.

(6) Where a claim of non-payment of wages is made to the Court, the Court may, where it thinks fit, order an employer to pay interest at a rate not exceeding 12 per cent in a year on the amount of remuneration due from the date of non-payment or short payment to the date of payment.

[S. 27 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

28. Payment of remuneration to part-time worker

(1) Every employer shall pay to a part-time worker not less than the basic wage or salary prescribed in any enactment or specified in a collective agreement except where the enactment overrides the agreement, for the category or grade in which he is employed, whichever is higher, calculated proportionately on the notional hourly rate and increased by not less than 10 per cent.

[Amended 12/2023 (cio 20/7/2023).]

(2) Where no basic wage or salary is prescribed in an enactment or specified in a collective agreement, every employer shall pay to a part-time worker not less than the basic wage or salary of a comparable full-time worker, calculated proportionately on the notional hourly rate and increased by not less than 10 per cent.

[Amended 12/2023 (cio 20/7/2023).]

[R. 28 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

Section C – Joint Liability of Job Contractor and Employer as Regards Remuneration and Obligations of Labour Contractor

[RR 11/24 (cio 27/7/24).]

29. Joint liability on remuneration

(1) Subject to subsection (2), a job contractor and the principal, for whom the job contractor has recruited or employed a worker, shall be jointly and severally liable for the payment of the remuneration of the worker and for the conditions of employment of the worker, including their safety, health and welfare.

(2) The liability of the principal of a job contractor under subsection (1) shall be limited to the sum payable by him to the job contractor under the arrangement between them.

(3) No person who is jointly liable with a job contractor under subsection (1) may set up as a defence to a claim from a worker seeking to recover remuneration the fact that he has already paid to the job contractor any sum due under the arrangement with the job contractor.

(4) Subject to subsection (5), every worker employed by a job contractor shall, for securing payment of his remuneration, have the same privileges, in

respect of the property of the principal, as he would have had if he had been directly employed by the principal without the intervention of the job contractor.

(5) Any amount recoverable under subsection (4) shall not exceed the amount payable by the principal to the job contractor under subsection (2).

29A. Registration as labour contractor

(1) Any person who intends to operate as a labour contractor shall make an application to the supervising officer of the Ministry responsible for the subject of employment in such form and manner as may be prescribed.

(2) The Minister to whom responsibility for the subject of employment is assigned may make such regulations as he thinks fit for the purpose of subsection (1).

[S. 29A inserted by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

29B. Obligations of labour contractor

(1) A labour contractor may supply a migrant worker to work with a hirer employer in such economic sector of activity and such job categories, as may be prescribed.

(2) Where a labour contractor recruits a migrant worker to work for a hirer employer –

(a) the migrant worker shall enter into an agreement with the labour contractor; and

(b) the labour contractor shall be the employer of the migrant worker for the period the migrant worker is supplied to work with the hirer employer or not.

(3) Where a migrant worker is supplied to work for a hirer employer in a specific sector of activity, the remuneration and terms and conditions of employment of the migrant worker shall be regulated by the Remuneration Regulations applicable to that sector or by any other relevant enactment.

(4) (a) The labour contractor shall, where a migrant worker is supplied to work for a hirer employer, inform the migrant worker, in writing, of –

(i) the name and location of the hirer employer;

(ii) his job description;

(iii) the remuneration payable to him and the other conditions of his employment;

(iv) the duration for which he is supplied to work for the hirer employer; and

(v) the location of his lodging accommodation.

(b) The labour contractor shall keep a register of the placement of a migrant worker with each hirer employer.

[S. 29B inserted by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

29C. Liability of labour contractor and hirer employer

(1) Subject to subsections (2) and (6), a labour contractor and the hirer employer to whom the labour contractor has supplied a migrant worker, shall be jointly and severally liable for –

(a) the payment of the remuneration and conditions of employment of the migrant worker including his safety, health and welfare;

(b) the payment of any statutory contribution in respect of every migrant worker employed by the labour contractor in the execution of the work or service.

(2) The liability of the hirer employer under subsection (1) shall be limited to the sum payable by him to the labour contractor under the arrangement between them.

(3) A hirer employer who is jointly liable with a labour contractor under subsection (1) may not set up as a defence to a claim from a migrant worker seeking to recover remuneration, the fact that he has already paid to the labour contractor any sum due under the arrangement with the labour contractor.

(4) Subject to subsection (5), every migrant worker supplied to work for a hirer employer shall, for securing payment of his remuneration, have the same privileges, in respect of the property of the hirer employer, as he would have had if he had been directly employed by the hirer employer without the intervention of the labour contractor.

(5) Any amount recoverable under subsection (4) shall not exceed the amount payable by the hirer employer to the labour contractor under subsection (2).

(6) Where a labour contractor supplies a migrant worker to work with a hirer employer, the hirer employer shall be –

(a) liable for any act of violence at work specified in section 114(3) and (4) of the Act;

(b) liable for any accident, injury or death sustained by the migrant worker out of, and in the course of, his employment.

[S. 29C inserted by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

Section D – Remuneration in Specific Circumstances

30. Payment of remuneration for work performed on public holiday

(1) Every worker shall be entitled to a normal day's pay in respect of every public holiday, other than a Sunday, that occurs on any of his normal working days.

(2) Where a worker is required to work on a public holiday, other than a Sunday, he shall be paid, in addition to the normal day's pay provided for under subsection (1), any remuneration due under section 24.

(3) Any agreement by a worker to relinquish his right to a paid public holiday or to forego such leave shall be void.

31. Payment of remuneration due on termination of agreement

(1) Subject to subsection (2), every employer shall pay any remuneration due to a worker on the termination of the worker's agreement.

(2) Where the parties to an agreement are deemed to have entered into a fresh agreement, the employer shall, not later than 2 working days after the expiry of the previous agreement, pay to the worker the remuneration due under the previous agreement.

(3) Where notice of termination of an agreement has been given under section 63, the employer shall, on or before the date of expiry of the notice, pay to the worker any remuneration due under the agreement.

(4) Where an agreement is terminated otherwise than by notice under section 63, or on expiry of the period for which the agreement was agreed to last, the employer shall pay to the worker any remuneration due on the termination of the agreement.

(5) Where an agreement is terminated by an employer otherwise than on the ground of misconduct, and at the time of termination the worker has not taken the annual leave to which he is entitled to under section 45 or any other enactment or any agreement, the employer shall, in lieu of the remaining annual leave, pay to the worker such remuneration which he would have been entitled to if his agreement was not terminated.

32. Payment of remuneration in other specific circumstances

(1) An employer shall pay to a worker –

(a) a full day's remuneration where –

(i) the employer is unable to provide work to the worker; or

(ii) due to climatic conditions, power failure, or breakdown in machinery or appliances, work has been stopped after the worker has worked for more than 2 hours; or

(b) half a day's remuneration where owing to climatic conditions, power failure or breakdown in machinery or appliances –

(i) the employer is of opinion that no work can be performed; or

(ii) work has been stopped before the worker has completed 2 hours of work.

(1A) Where, during a period of extreme weather conditions, including, but not limited to heavy or torrential rainfall, an order is issued by the National Crisis Committee under section 16 requiring any person to remain indoors, or a state of disaster is declared and any direction for the purpose of assisting and protecting the public is issued under section 37 of the National Disaster Risk Reduction and Management Act –

(a) an employer shall not require a worker to report to work, or to continue to work, where he is exposed to the weather conditions, as the case may be; and

(b) the employer shall pay to the worker –

(i) a full day's remuneration where –

(A) no work can be performed owing to the weather conditions; or

(B) the worker resumes work for 2 hours or more;

(ii) a half day's remuneration where –

(A) work has been stopped before the worker has completed 2 hours of work; or

(B) the worker resumes work for not more than 2 hours.

[Inserted 7/2020 (cio 7/8/2020).]

(2) An employer may require a worker to work temporarily for a time shorter than that specified in his agreement at a reduced remuneration, subject to the approval of the supervising officer.

(3) A worker who is required to work for a shorter time as specified in subsection (2) and is paid a lower remuneration shall have the right to accept work from another employer during the time no work is provided to him.

(4) Where a cyclone warning class III or IV or a safety bulletin issued under the Mauritius Meteorological Services (Warnings) Regulations 2023 is in force, a worker may absent himself from work and the employer shall pay remuneration to the worker at the normal rate in respect of the period of absence.

[Amended 12/2023 (cio 20/7/2023).]

(5) Subsection (4) shall apply until –

(a) the cyclone warning class III or IV is lifted or a termination bulletin is issued by the Mauritius Meteorological Services under the Mauritius Meteorological Services (Warnings) Regulations 2023; and

[RR 12/2023 (cio 20/7/2023).]

(b) the employer provides a means of transport to the worker to attend his place of work; or

(c) public transport is available.

(6) (a) Where, by the nature of the operation of the undertaking in which a worker is employed, the worker is required to work on the employer's premises or at any other place where he has been assigned duty, or where he is required to work at the employer's premises during extreme weather conditions, the worker shall, in addition to any remuneration due to him, be entitled to an allowance equal to 3 times the basic rate per hour in respect of every hour of work performed and an adequate free meal.

(b) A worker may be required to perform work from home by his employer, during period of extreme weather conditions, where there is no –

(i) risk to his life or that of his family;

(ii) risk of injury;

(iii) risk of his residence being damaged; or

(iv) electricity or communication breakdown.

(c) Where a worker performs work at home under conditions specified in paragraph (b), he shall be remunerated at not less than twice the rate at which the work is remunerated when performed during the normal working hours.

(d) In this subsection –

"extreme weather conditions" includes –

(a) cyclonic conditions where a warning class III or IV is issued by the Mauritius Meteorological Services;

(b) a situation where an order is issued by the National Crisis Committee under the National Disaster Risk Reduction and Management Act requiring a person to remain indoors during a period of heavy or torrential rain; or

(c) a situation where a safety bulletin has been issued by the Mauritius Meteorological Services under the Mauritius Meteorological Services Act.

[RR 11/24 (cio 27/7/24).]

(6A) (a) Every employer shall, except where he already has an insurance policy covering injury, disease or death of a worker arising out of and in the course of employment in circumstances provided for in subsections (1A) and (6), provide an insurance policy to cover injury, disease or death sustained by a worker in such circumstances.

(b) The insurance policy referred to in paragraph (a) shall, in the case of death of a worker, provide for the payment of a compensation or a monthly pension, to the legal heirs of the deceased worker.

[Inserted 12/2023 (cio 20/7/2023).]

(7) Subject to section 51, no remuneration shall be payable to, or recoverable by, a worker for any period –

(a) during which the worker is in lawful custody;

(b) spent by the worker in a reform institution; or

(c) spent by the worker in going to, attending, or returning from, any Court.

[S. 32 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

Section E – Additional remuneration to compensate increase in cost of living

33. Payment of additional remuneration

(1) Subject to subsections (3), (4) and (5), every employer shall, as from the appointed date, pay, in addition to the actual wage or salary earned by the worker, such additional remuneration to such category of workers in his employment, as may be prescribed, to compensate him for an increase in the cost of living.

[RR 15/21 (cio 5/8/21); RR 15/22 (cio 1/7/22).]

(2) Where the wage or salary of a worker is paid partly by one employer and partly by another, each employer shall pay that part of the additional remuneration which bears the same proportion to the additional remuneration as the part of the wage or salary paid by him bears to the total wage or salary.

(3) Where an employer has paid, during the period 1 January to 31 December of the year, an increase in wage or salary –

(a) otherwise than –

(i) by virtue of the additional remuneration prescribed under this section or any Remuneration Regulations of the previous year;
[RR 12/2023 (cio 20/7/2023).]

(ii) by way of an increment or increase on promotion; or

(b) pursuant to a collective agreement or an award of the Tribunal,

and such increase was specified in writing, or agreed upon by the worker, as being an increase in wage or salary designed specifically to compensate the worker for an increase in the cost of living in respect of that period, there shall be sufficient compliance with subsection (1), in case such increase is less than the additional remuneration specified in subsection (1), if the employer pays the difference.

(4) Subject to subsection (6), where a worker is remunerated on a piece rate basis at rates specified in the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 or as agreed upon, such rates shall, as from the appointed date, be increased in the same proportion as the increase of the payment of the additional remuneration on the basic wage prescribed or agreed upon, as the case may be, of the worker.

(5) Subject to subsections (4) and (6), where a worker is remunerated on a piece rate basis at rates specified in any Remuneration Regulations or Wages Regulations or any other enactment, such rates shall, as from the appointed date, be increased by such appropriate rate as may be prescribed.

(6) The piece rates specified in the enactments specified in subsections (4) and (5) shall include any previous additional remuneration under this section.

(7) Where civil or criminal proceedings are instituted against an employer under this section in relation to a worker first employed by him on or after the appointed date, it shall be a defence for the employer to prove that the wage or salary paid to the worker is not less favourable than all the pecuniary payments made to any other worker of the same grade.

(8) Where a worker is remunerated otherwise than on a monthly basis, it shall be deemed, for the purpose of determining the appropriate additional

remuneration, that a month, a fortnight or a week shall consist of such number of days as are specified in any other enactment or agreed upon in relation to that worker.

(9) The amount or percentage of additional remuneration and the appointed date for its payment shall be as may be prescribed.

(10) In this section –

"basic wage or salary" means –

(a) (i) in relation to a worker whose basic wage or salary is prescribed, and which exceeds the national minimum wage payable to him under the National Minimum Wage Regulations 2017 under the National Wage Consultative Council Act 2016, such basic wage or salary, whether or not the worker's actual wage or salary exceeds the prescribed wage or salary or the worker is remunerated on a piece rate basis or employed on task work;

(ii) in relation to a worker, other than a worker of an export enterprise, whose basic wage or salary is prescribed and which, prior to 1 January 2018, was less than the national minimum wage payable to him under the National Minimum Wage Regulations 2017 under the National Wage Consultative Council Act 2016, the national minimum wage plus such successive additional remuneration as may be prescribed;

(iii) in relation to a worker of an export enterprise whose basic wage or salary is prescribed and which, prior to 1 January 2018, was less than the national minimum wage payable to him under the National Minimum Wage Regulations 2017, the national minimum wage plus such successive additional remuneration as may be prescribed;

(iv) in relation to a worker in respect of whom no wage or salary is prescribed under any Remuneration Regulations or Wages Regulations or agreed upon in his contract of service, the total amount, by whatever name called, earned by him as from the appointed date;

(v) in every other case and subject to the payment of the national minimum wage under the National Minimum

Wage Regulations 2017 under the National Wage Consultative Council Act, the basic wage or salary agreed upon in the worker's contract of service, whichever is higher, whether or not the worker's actual wage or salary exceeds the agreed wage or salary or the worker is remunerated on a piece rate basis or employed on task work; and

(b) includes any previous additional remuneration granted under any enactment; but

(c) does not include any allowance, commission or other benefit not forming part of a worker's wage or salary but given to him in addition to his wage or salary.

[S. 33 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.].]

Section EA – Special allowance

[Inserted 7/2020 (1/1/2020).]

33A. Payment of special allowance

(1) The Director-General may pay to a worker such special allowance, as may be prescribed.

(2) The category of the worker referred to in subsection (1), the monthly basic salary of the worker and the period for which the allowance is payable shall be prescribed.

(3) Where a worker is entitled to and is paid the allowance referred to in subsection (1), the worker shall not be eligible to the Negative Income Tax allowance payable under section 150A of the Income Tax Act.

(4) The Minister may, after consultation with the Minister to whom responsibility for the subject of finance is assigned, make such regulations as he thinks fit for the purpose of this section.

(4A) For the purpose of payment of special allowance for the period starting on 1 July 2023 and ending on such period as may be prescribed –

"worker" includes, notwithstanding this Act, a public officer or local government officer, or a worker of a statutory body who is on terms

and conditions specified in a report of the Pay Research Bureau, drawing such pay as may be prescribed.

[Inserted 12/2023 (cio 20/7/2023).]

(5) In this section –

"basic salary" includes any additional remuneration payable under section 33.

[S. 33A inserted by s. 71 of Act 7 of 2020 w.e.f. 1 January 2020; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

Section F – Restriction to deduct amount from worker's remuneration

34. Restriction of deduction

(1) Subject to subsection (2), no employer shall deduct any amount from a worker's remuneration, other than an amount –

(a) authorised by the worker in writing which –

(i) is due to the employer in recovery of an advance made on basic wages, provided the deduction does not exceed one fifth of the basic wages due for a pay period; or

(ii) the worker wishes to make any payment or contribution to any fund, body or other institution; or

(b) which is deducted in accordance with any enactment or a Court order.

(2) No employer shall deduct any amount from a worker's remuneration, which in the aggregate, exceeds one half of the worker's remuneration for any pay period.

(3) No employer shall, in respect of the payment of remuneration, deduct any amount –

(a) by way of fine or compensation for poor or negligent work or for damage caused to the property of the employer;

(b) as a direct or indirect payment for the purpose of obtaining or retaining employment; or

(c) by way of discount, interest or any charge on account of any advance of remuneration made to a worker.

Sub-Part III – Failure to Pay Remuneration

Section A – Protective order

35. Application for protective order

(1) Where, after making an enquiry or on being notified, the supervising officer is satisfied that an employer has failed to pay any remuneration, notice, severance allowance or gratuity due to a worker or a group of workers, the supervising officer may, where he considers it appropriate, apply to the Judge in Chambers for a protective order, on behalf of the worker or group of workers, against the employer and, where applicable, any bank or other financial institution holding funds on behalf of the employer, in the amount of the remuneration, notice, severance allowance or gratuity due.

[RR 15/21 (cio 5/8/21); 15/22 (cio 1/7/22).]

(2) An application under subsection (1) shall be made where the supervising officer –

(a) (i) has lodged a case before the Court on behalf of the worker or group of workers to claim notice, severance allowance or remuneration due to the worker or group of workers, as the case may be;

(ii) is satisfied, following an enquiry made, that remuneration due to a worker has not been paid by an employer whose enterprise is under receivership, administration or liquidation;

(iii) is notified that an order for payment of remuneration, notice or severance allowance has been made by the Redundancy Board and there has been non-compliance with the order; and

(iv) is satisfied, following an enquiry made, that payment of gratuity due under section 99 or 100 has not been paid; and

(b) (i) has reasonable grounds to believe that the employer may dispose of his property to the prejudice of the worker or group of workers to whom remuneration, notice, severance allowance or gratuity, as the case may be, is due; and

(ii) is satisfied that the amount or value of the property is proportionate to the amount due as remuneration, notice, severance allowance or gratuity, as the case may be.

(3) In this section and in sections 36 and 39 –

"remuneration" has the same meaning as in section 2;

"severance allowance" –

(a) means the severance allowance payable by order of the Court under section 70(1) or by order of the Redundancy Board under section 72, 72A or 74;

(b) includes compensation payable pursuant to an agreement drawn under section 74.

[S. 35 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

36. Grant of protective order

(1) Where the supervising officer applies to the Judge in Chambers for a protective order, and the Judge in Chambers is satisfied, having regard to any relevant evidence, that there is reasonable ground to believe that –

(a) (i) payment of notice, severance allowance, remuneration or gratuity is due; and
[Amended 15/22 (cio 1/7/22).]

(ii) where a notice under section 121 is issued, there is non-compliance with the notice;
[RR 15/21 (cio 5/8/21).]

(b) the employer may dispose of his property to the prejudice of the worker or group of workers to whom subject to section 35(1), payment of notice, severance allowance, remuneration or gratuity is due;

[Amended 15/21 (cio 5/8/21); 15/22 (cio 1/7/22).]

(c) the amount or value of the property is proportionate to the amount of the notice, severance allowance, remuneration or gratuity due,

[Amended 15/21 (cio 5/8/21); 15/22 (cio 1/7/22).]

the Judge in Chambers may order that the property shall not be disposed of or otherwise dealt with by any person except in such manner and in such circumstances as specified in the Order.

(2) Where the Judge in Chambers makes a protective order, the supervising officer shall, within 21 days of the making of the protective order, or such other period as the Judge in Chambers may direct, give notice of the order to the employer and any bank or other financial institution holding funds on behalf of the employer.

[S. 36 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

37. Duration of protective order

(1) The protective order under section 36 shall remain in force for a period of 12 months.

(2) The supervising officer may, on good cause shown, apply to the Judge in Chambers to extend the duration of a protective order until the Court case referred to in section 35(2)(a) is disposed of or for such period as the Judge in Chambers thinks fit.

38. Order in respect of immovable property

(1) Following the grant of a protective order in respect of immovable property of a particular kind and where any enactment provides for the registration of title to, or charges over, property of that kind, the Judge in Chambers may, on application by the supervising officer, order the Registrar-General to make entries in a register which may be consulted by a notary, an attorney or any other person who can show that he has a legitimate interest to do so.

(2) An order made under subsection (1) shall be registered free of any tax, duty or fee.

(3) An order under subsection (1) may include a restriction that the property shall not, without the order of the Judge in Chambers –

(a) be mortgaged or otherwise burdened;

(b) be attached or sold in execution;

(c) vest in the liquidator when the estate of the owner of that immovable property is sequestrated; or

(d) where the owner of the property is a corporate body, form part of the assets of that corporate body where it is wound up.

(4) Where an order is made under this section, the supervising officer shall –

(a) cause notice of the order to be published in the next issue of the Gazette and in at least 2 newspapers having wide circulation; and

(b) give notice of the order to –

(i) all notaries;

(ii) all banks, financial institutions and cash dealers.

39. Variation and discharge of protective order

(1) Any person may apply to the Judge in Chambers for the variation and discharge of the protective order granted under section 36.

(2) The Judge in Chambers –

(a) may vary or discharge the protective order where necessary in the interests of justice; or

(b) shall discharge the Order where –

(i) the notice, severance allowance, remuneration or gratuity due to the worker or group of workers has been paid;
[Amended 15/21 (cio 21/1/21); 15/22 (cio 1/7/22).]

(ii) the court case referred to in section 35(2)(a) has been disposed of; or

(iii) it is in interests of justice to do so.

(3) Where a protective order in respect of an immovable property is varied or discharged, the Judge in Chambers shall direct the Registrar-General to make appropriate entries in the Register of Protective Orders specified in section 38A of the Notaries Act.

[S. 39 amended by s. 94 of Act 15 of 2021 w.e.f. 21 January 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

Section B – Wage Guarantee Fund Account

40. Wage Guarantee Fund Account

(1) The Workfare Programme Fund shall hold an account to be known as the Wage Guarantee Fund Account.

(2) The purpose of the Wage Guarantee Fund Account shall be to pay –

(a) remuneration due to a worker up to an amount of 50,000 rupees; and

(b) any amount due as may be prescribed in relation to the Portable Retirement Gratuity Fund where contributions have not been made,

where an enterprise in which the worker is employed is considered to be insolvent.
[Amended 15/21 (cio 5/8/21).]

(3) In this section –

"remuneration" means basic wage for not more than the last 3 months wages as indemnity in lieu of notice and end of year gratuity paid in accordance with the End of Year Gratuity Act or any other relevant enactment.
[Amended 12/2023 (cio 20/7/2023).]

[S. 40 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

41. Payment into Wage Guarantee Fund Account

There shall be paid into the Wage Guarantee Fund Account –

(a) a seed capital as may be prescribed;

(b) interests on investment;

(c) any money recovered after the realization of assets –

(i) not exceeding the remuneration paid to a worker under the Wage Guarantee Fund Account; and

(ii) by the Director-General in respect of non-contribution to Portable Retirement Gratuity Fund.

42. Redemption of claim

(1) A worker who is not paid remuneration where his employer is insolvent shall register a complaint with the supervising officer to be entitled to unpaid remuneration.

(2) Where a claim is made under subsection (1), the supervising officer shall inform the employer in writing of the amount claimed by the worker within 7 days of the date of registration of the claim.

(3) The employer shall, subject to subsection (4), submit to the supervising officer the details in connection with the remuneration paid and or due to a worker in the form set out in the Third Schedule within 7 days of the date of receipt of the claim made under subsection (1).

(4) Where the supervising officer is satisfied that the claim is bona fide, he shall, within 7 days of the date on which the details required under subsection (3) have been submitted, give written notice to the employer, to pay any remuneration due within 7 days.

[Amended 12/2023 (cio 20/7/2023).]

(5) Where an employer has received a notice under subsection (4), he shall inform the supervising officer –

(a) of the date on which payment of remuneration will be effected to the workers; or

(b) where funds are not available, of the date on which the employer intends to effect payment to the workers.

(6) Where the employer fails to pay remuneration under subsection (4), the supervising officer of the Ministry responsible for the subject of social security shall, within a period of 7 days, pay to the worker from the Wage Guarantee Fund Account under section 40, any remuneration due.

[Amended 7/2020 (cio 7/8/2020).]

(7) The liquidator, other than the Official Receiver, a receiver, an administrator, a special administrator or any person appointed under the Insolvency Act shall, after realisation of the assets of the company –

(a) inform the supervising officer of the amount available in respect of the balance of remuneration due to the worker;

(b) pay the amount due to the worker up to a sum not in excess of 50,000 rupees to the Wage Guarantee Fund Account; and

(c) where funds are available, pay to the worker any remaining balance in excess of 50,000 rupees as the supervising officer may determine.

[S. 42 came into operation on 24 October 2019; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

43. Recovery of overpayment of benefit

(1) (a) Where a person receives a benefit to which he is not entitled or which he is not qualified to receive or was disqualified from receiving, the amount of the benefit shall be recovered in accordance with paragraph (b).

(b) The Director-General shall recover any benefit referred to in paragraph (a) in the same manner as income tax is recoverable under Part XI of the Income Tax Act.

(2) Where any unpaid remuneration is paid into the bank account of a worker and it is subsequently found by the supervising officer that the benefit should not have been so paid, the bank shall, on written request to that effect by the supervising officer, refund the amount so paid to the Wage Guarantee Fund Account and may debit the bank account accordingly.

(3) The Court may, where it thinks fit and whether or not a claim to that effect has been made, order an employer to pay interest at a rate not exceeding 12 per cent per annum on the amount of wages due from the date of non-payment or short payment to the date of payment.

Sub-Part IV – Other Conditions of Employment

Section A – Meal allowance

44. Meal allowance

(1) A worker shall, in addition to any remuneration due, be provided by his employer with an adequate free meal or be paid a meal allowance in such amount as specified in the Fourth Schedule, where –

(a) he is required to perform more than 2 hours extra work after having completed his normal day's work on any day of the week; or

(b) he is required to perform a normal day's work of at least 10 hours.

[RR 15/22 (cio 1/7/22).]

(2) The meal allowance referred to in subsection (1) shall be paid not later than on the last working day of the pay period.

(3) Subsection (1) shall not apply to a migrant worker where the migrant worker is being paid a meal allowance or is being provided a free meal for a value higher than what he would be entitled under this section.

(4) In this section, a normal day shall be deemed to be of –

(a) 8 hours for a worker employed on a 6-day week;

(b) 9 hours for a worker employed on 5-day week; or

(c) the number of stipulated hours specified in an agreement.

[S. 44 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

Section B – Entitlement to leaves

45. Annual leave

(1) Subject to subsection (11), every worker, other than a part-time worker, who remains in continuous employment with the same employer for a period of 12 consecutive months shall be entitled, during each subsequent period of 12 months while he remains in continuous employment, to 20 working days' annual leave.

(2) Every worker shall be entitled to 2 days' leave in every year, in addition to the leave specified in –

(a) subsection (1) or any other enactment; or

(b) any agreement, collective agreement or award of the Tribunal or an arbitrator.

(3) Leave specified in subsection (1) or (2) may be taken on full day, half day or such shorter period as agreed between an employer and a worker.

(4) Every worker, other than a part-time worker, who remains in continuous employment with the same employer for a period of 6 consecutive months and who has been present on all the working days during that period, shall be entitled to one day's annual leave during each subsequent month up to the twelfth month, while he remains in continuous employment with the same employer.

(5) Where a part-time worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled during each subsequent period of 12 months, to such number of days of annual leave on full pay computed in accordance with the following formula –

$$\frac{N}{W} \times Y$$, where –

"N" means the number of days of work he is required to perform in a week;

"W" means the number of working days in a week of a comparable full-time worker;

"Y" means the number of days of annual leave to which a worker is entitled under subsection (1), any other enactment including any Remuneration Regulations or Wages Regulations, or any agreement, collective agreement or an award of the Tribunal or an arbitrator.

(6) Where an employer and a worker are unable to agree as to when the leave under this section is to be taken, half of the leave period shall be fixed by the employer and the other half by the worker.

(7) A worker who wishes to take more than one day's annual leave consecutively shall, except where reasonable cause is shown, give his employer at least 48 hours' advance written notice.

(8) (a) Subject to paragraph (b), an employer shall pay to a worker a normal day's wage in respect of each day's leave still due to him at the end of the period of 12 consecutive months, where the worker has not taken or has not been granted by the employer all the leave the worker is entitled to under subsection (1), (2) or (5).

(b) Where during any period of 12 consecutive months, a worker has not requested for annual leave or where his request has not been granted, the worker may, instead of any payment under paragraph (a), opt to have the remaining leave accumulated and inform his employer in writing of his option.

(c) (i) An employer shall, where a worker ceases to be in his employment, whether on ground of termination of employment or otherwise, refund to the worker, any accumulated annual leave not taken by the worker or not granted by the employer.

(ii) The worker shall be paid a normal day's wage in respect of each day's annual leave refunded to him under subparagraph (i).
[RR 12/2023 (cio 20/7/2023).]

(9) An employer shall not, without reasonable cause, withhold the granting of leave to a worker under this section.

(10) Any agreement by a worker to relinquish his annual leave entitlement under this section shall be null and void.

(11) Subject to subsection (2), this section shall be subject to any other enactment, a collective agreement or an award.

(12) –
[R 12/2023 (cio 20/7/2023).]

[S. 45 amended by s. 57(f) of Act 1 of 2020 w.e.f. 23 March 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

46. Sick leave

(1) (a) Subject to subsections (4) and (5), every worker, other than a part-time worker, who remains in continuous employment with the same employer for a period of 12 consecutive months shall be entitled, during each subsequent

period of 12 months while he remains in the continuous employment, to 15 working days' sick leave on full pay.

(b) Where, at the end of a period of 12 consecutive months, a worker has not taken the sick leave to which he is entitled to under paragraph (a), any outstanding sick leave shall be accumulated.

[Amended 15/22 (cio 1/7/22).]

(2) (a) Where a part-time worker remains in continuous employment with the same employer for a period of 12 consecutive months, he shall be entitled, during each subsequent period of 12 months, to the number of days of sick leave on full pay computed in accordance with the following formula –

N/W x Y, where –

"N" means the number of days of work he is required to perform in a week;

"W" means the number of working days in a week of a comparable full-time worker;

"Y" means the number of days of sick leave to which a worker is entitled under subsection (1)(a) or any other enactment including any Remuneration Regulations or Wages Regulations, or any agreement, collective agreement or award of the Tribunal or an arbitrator.

(b) Where, at the end of a period of 12 consecutive months, a part-time worker has not taken the sick leave to which he is entitled under paragraph (a), any outstanding sick leave shall be accumulated.

[RR 15/22 (cio 1/7/22).]

(3) Every worker, other than a part-time worker, who remains in continuous employment with the same employer for a period of 6 consecutive months and who has been present on all the working days during that period shall be entitled to one day's sick leave during each subsequent month up to the twelfth month, while he remains in continuous employment with that employer.

(4) Where a worker has exhausted the sick leave provided for under subsection (1)(a) or (2)(a) and has thereafter been granted sick leave –

(a) for time wholly spent in a hospital, or other medical institution; or

(b) for convalescence purposes after discharge from a hospital or other medical institution,

such additional sick leave duly certified by a medical practitioner may be deducted from the accumulated sick leave, under subsection (1)(b) or (2)(b) and shall be on full pay.

(5) Where a worker absents himself on ground of illness, he shall, unless reasonable cause is shown and except where the employer is aware of the nature of the illness, notify his employer of his illness on the first day of absence.

(6) Where a worker remains ill for more than 3 consecutive working days, he shall forward to his employer a medical certificate –

(a) on the fourth day of absence; or

(b) where the worker is admitted to a hospital or other medical institution, within 3 days of his discharge from the hospital or medical institution.

(7) A medical certificate referred to in subsection (6) shall not be valid in respect of any period exceeding 3 days before the day on which it is issued.

(8) (a) Every employer may, at his own expense, cause a worker who is absent on ground of illness or menstrual leave to be examined by a medical practitioner.

[Amended 13/26 (cio 13/8/26).]

(b) Where a worker is required to attend a medical examination under paragraph (a), the employer shall, at his own expense, provide free transport to the worker to attend the medical examination.

(c) Where a worker is bedridden, the employer may, with the consent of the worker, cause a medical practitioner to examine the worker at the residence of that worker.

[S. 46 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

46A. Menstrual leave

(1) Every female worker shall be entitled, every month, to one day's menstrual leave on full pay during the period that she remains in employment.

(2) For the purpose of sections 45(4) and 46(3), a day on which a worker is on menstrual leave, shall not be deemed to be absence from work.

(3) In this section –

"menstrual leave" refers to leave granted to a female worker who is temporarily unable to perform work due to severe menstruation-related symptoms or disorders.

[S. 46A inserted by s. 59 of Act 13 of 2026 w.e.f. 13 August 2026.]

47. Vacation leave

(1) Subject to subsection (2), a worker, other than a migrant worker, who remains in continuous employment with the same employer for a period of at least 5 consecutive years shall be entitled to vacation leave of not more than 30 days, whether taken consecutively or otherwise, for every period of 5 consecutive years, to be spent abroad, locally or partly abroad and partly locally.

(2) Subject to subsection (4C), any subsequent eligibility period of 5 consecutive years shall be computed after the worker resumes work after the vacation leave under subsection (1).

[Amended 11/24 (cio 27/7/24).]

(3) The vacation leave under subsection (1) shall be –

(a) for a period of not less than 6 consecutive days; and

(b) with pay and such pay shall, in case the worker opts to spend the leave wholly or partly abroad, be effected at least 7 working days before the worker proceeds abroad.

[RR 11/24 (cio 27/7/24).]

(4) The vacation leave under this section shall be deemed to constitute attendance at work and shall not be cumulative.

(4A) A worker shall, except in special circumstances, give not less than 3 months' notice when applying for the vacation leave and the application shall, subject to reasonable business grounds, be approved by the employer.

[Inserted 11/24 (cio 27/7/24).]

(4B) Where an employer cannot, on reasonable business grounds, grant the application of a worker under subsection (4A) –

(a) the worker and the employer may mutually agree on another period when the vacation leave is to be taken; or

(b) in default of an agreement, the employer shall pay to the worker a normal day's wage in respect of each day's leave applied for and such payment shall be effected in the month the leave was due to start.

[Inserted 11/24 (cio 27/7/24).]

(4C) Where a worker is paid wages in lieu of the vacation leave under subsection (4B), any subsequent eligibility period of 5 consecutive years shall be computed as from the date of payment.

[Inserted 11/24 (cio 27/7/24).]

(4D) In this section –

"reasonable business grounds" means –

(a) inability or impracticability to reorganise working arrangements of existing workers;

(b) a detrimental effect on the ability to meet customers' demand.

[Added 11/24 (cio 27/7/24).]

(5) For the purpose of subsection (1), the computation of the period of 5 consecutive years shall start as from the date of the commencement of this Act.

[S. 47 amended by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

47A. Leave to care for child, parent, grandparent or spouse with healthcare-related issues

[RR 20/25 (cio 9/8/25).]

(1) A worker shall, subject to subsection (2), be granted leave with pay to be reckoned, at his option, against any of his paid leave under section 45(1) and (2), 46(1) or 47(1) or any paid annual leave, sick leave or vacation leave entitlement under any other enactment to care for –

(a) his child, including his adopted child;

(b) his parent;

[RR 20/25 (cio 9/8/25).]

(c) his grandparent; or

[Added 20/25 (cio 9/8/25).]

(d) his spouse;
[Added 20/25 (cio 9/8/25).]

having healthcare-related issues.

(2) A worker shall be granted leave under subsection (1) provided that –

(a) he notifies his employer on the first day of absence;

(b) he produces his birth and marriage certificate, the birth certificate of his or her spouse and the birth certificate of the child or adopted child, parent or grandparent, as the case may be;

(c) in the case of an adopted child, he produces a certified copy of the relevant Court Order and the birth certificate of the child;

(d) he produces, where he absents himself for more than 3 consecutive working days, a medical certificate certifying that his child or adopted child, parent, grandparent or spouse, as the case may be, has healthcare related issues; and
[Amended 20/25 (cio 9/8/25).]

(e) he produces such other relevant document which the employer may require.

(3) Any request for leave with pay to care for his parent, grandparent or spouse, other than for his child, shall not exceed 10 days.
[Amended 20/25 (cio 9/8/25).]

(4) In this section –

"grandparent" means the mother or father of –

(a) the worker's parents; or

(b) the parents of the spouse of the worker;

"parent" means the mother or father of the worker or of his or her spouse;

"spouse" means a person with whom the worker has contracted a civil or religious marriage.

[S. 47A inserted by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; repealed and replaced by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 11 of Act 20 of 2025 w.e.f. 9 August 2025.]

48. Special leave

Where a worker remains in continuous employment with the same employer for a period of 12 consecutive months, the worker shall be entitled to –

(a) 6 working days' special leave on full pay on the occasion of the celebration of his first civil or religious marriage;

(b) 3 working days' special leave on full pay on the occasion of the first civil or religious marriage of his son or daughter; and

(c) 3 working days' special leave on full pay on the death of his spouse, child, father, mother, brother or sister.

49. Juror's leave

A worker shall be granted leave with pay by his employer during the period of his absence from work pursuant to a summons issued to him to attend service as juror under the Courts Act.

50. Leave to participate in international sport or cultural events
[Amended 12/2023 (cio 20/7/2023).]

Where a worker is selected or nominated to participate in an international sport or cultural events to represent Mauritius, the worker shall, subject to advance notice being given and documentary evidence adduced as to the duration of his absence, be granted leave with pay at his request by his employer for the duration of the event or such longer period as may be necessary.

[S. 50 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

51. Leave to attend Court

(1) A worker shall be granted leave to attend Court regarding any matter in which he is a party or in which he is a witness.

(2) The leave under subsection (1) shall be with pay where the worker is attending Court as representative of the employer or on its behalf.

(3) For the purpose of subsection (1), an employer may require a worker to produce a certificate of attendance from the Court which the worker attended except where the worker attends Court under subsection (2).

51A. Remuneration and leave related to Covid-19 vaccination or RT-PCR Test

(1) The conditions relating to the payment of remuneration or grant of leave to a worker employed in an institution specified in subsection (2), in circumstances where the worker cannot have access to his place of work pursuant to the Quarantine Act 2020 or any regulations made thereunder, shall be such conditions as may be prescribed.

(2) In this section –

"institution" means –

(a) a *crèche*, a day care centre, a kindergarten;

(b) a special education needs institution, a pre-primary school, a primary school, a private secondary school, a tertiary institution;

(c) a vocational training centre and any other training institution; and

(d) such other institution as may be prescribed.

[S. 51A inserted by s. 94 of Act 15 of 2021 w.e. f. 20 June 2021.]

Section C – Entitlement to maternity and paternity leaves

52. Maternity leave and other benefits

(1) A female worker shall, on production of a medical certificate, be entitled to 16 weeks' maternity leave on full pay to be taken –
[Amended 11/24 (cio 7/6/24).]

(a) before confinement, provided that at least 8 weeks' maternity leave shall be taken immediately following the confinement; or
[Amended 11/24 (cio 7/6/24).]

(b) after confinement.

(1A) A female worker who gives birth to twins, triplets or multiple births, or to a premature baby, shall, in addition to the maternity leave specified in subsection

(1), be entitled to a 2-week additional maternity leave with pay.
[Inserted 11/24 (cio 7/6/24).]

(2) Subject to subsection (3), where a female worker who remains in continuous employment with the same employer for a period of 12 consecutive months gives birth to a child, she shall, on production of a medical certificate, be paid, within 7 days of her confinement, a maternity allowance, in such amount as specified in the Fourth Schedule.

(3) Where a part-time female worker remains in continuous employment with the same employer for a period of 12 consecutive months immediately preceding the beginning of leave specified in subsection (1), she shall, on production of a medical certificate, be entitled to an allowance computed in accordance with the following formula –

$$\frac{N}{W} \times \text{amount of maternity allowance specified in the Fourth Schedule,}$$

where –

"N" means the number of days of work she is required to perform in a week;

"H" means the number of working days in a week of a comparable full-time worker.

(4) Where a female worker suffers a miscarriage which is duly certified by a medical practitioner, she shall be entitled to 3 weeks' leave, followed by an additional 5 days' leave, both on full pay immediately after the miscarriage.
[Amended 12/2023 (cio 20/7/2023.)]

(5) Where a female worker gives birth to a stillborn child, she shall, on production of a medical certificate, be entitled to 16 weeks' leave on full pay.
[Amended 11/24 (cio 7/6/24).]

(6) Where a female worker, who has been in continuous employment with the same employer for a period of 12 consecutive months, adopts a child aged less than 12 months, the worker shall, on production of a certified copy of the relevant Court order and a copy of the act of birth of the child, be entitled to 16 weeks' leave on full pay.
[Amended 11/24 (cio 7/6/24).]

(7) (a) Where a female worker referred to in subsection (1) or (3) is nursing her unweaned child, she shall, for that purpose, be entitled on a daily basis

at a time convenient to her and having regard to the needs of the child to, at least –

(i) 2 breaks of half-hour each; or

(ii) one break of one hour.

(b) The female worker shall be entitled to the break specified in paragraph (a) for a period of 6 months from the date of confinement or such longer period as a medical practitioner may recommend and the period of the break shall not be deducted from the number of hours of work of the worker.

(8) An employer shall not require a female worker to perform work in excess of a normal day's work for a period of at least 2 months before her confinement.

(9) A female worker who is pregnant shall not, on a medical certificate produced to this effect and unless a medical practitioner certifies otherwise, be required to perform duties requiring continuous standing that may be detrimental to her health or the health of the baby.

(10) An employer shall not, except with the consent of a female worker, require the female worker to work between 6 p.m. and 6 a.m. during the 12 months following her confinement.

(11) An employer shall not, at any time, during the period where a female worker is on maternity leave or is nursing an unweaned child, give to the female worker notice of termination of employment for any reason, unless the grounds relates to the economic, technological, structural or similar nature affecting the employer's activities.

(12) Where, following a complaint made by, or representation received by or on behalf, of a worker, the supervising officer is of the opinion that no adequate arrangements have been made to nurse the unweaned child of a worker, the supervising officer may, after consultation with a medical practitioner, give such directions by written notice to the employer as he thinks fit.

[S. 52 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 7 June 2024.]

52A. Childcare facilities

(1) Any employer who has in his employment more than 250 workers shall, on such terms and conditions as may be prescribed, provide, free of charge, childcare facilities to a worker whose child is aged not more than 3 years.

[RR 11/24 (cio 27/7/24).]

(2) The requirements in respect of the childcare facilities shall be in accordance with the Child Day Care Centres Regulations 2022 or any other relevant enactment.

(3) In this section –

"childcare facilities" has the same meaning as the services provided by a *crèche* under the Child Day Care Centres Regulations 2022.

[S. 52A inserted by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; amended by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

53. Paternity leave

(1) Where the spouse of a male worker, who is in the continuous employment for a period of 12 consecutive months, gives birth to a child or where the worker or his spouse adopts a child aged less than 12 months, the male worker shall be entitled to a paternity leave of 4 consecutive weeks with pay.
[RR 11/24 (cio 7/6/24).]

(2) The entitlement of paternity leave under subsection (1) shall be subject to the production by the worker of –

(a) a certificate issued by a medical practitioner certifying or notifying that his spouse has given birth to a child;
[Amended 12/2023 (cio 20/7/2023).]

(aa) in the case of an adopted child, a certified copy of the relevant Court order and a copy of the birth certificate of the child; and
[Inserted 12/2023 (cio 20/7/2023).]

(b) a written statement signed by him that he is living with his spouse under a common roof.

(3) The paternity leave referred to in subsection (1) shall begin within 2 weeks from the date of date of birth of the child, from the date of discharge after childbirth of the mother from a hospital or other medical institution, or from the date of the adoption of the child, as the case may be.
[Amended 12/2023 (cio 20/7/2023).]

(4) A male worker who reckons less than 12 months' continuous employment with an employer shall be entitled to the leave specified in subsection (1) without pay.

(5) In this section –

"spouse" means a person with whom the male worker has contracted a civil or religious marriage.

[S. 53 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 7 June 2024.]

Section D – End of year bonus

54. End of year bonus

(1) (a) Where a worker remains in continuous employment of an employer for the whole or part of a year and with the same employer as at 31 December of the year, the worker shall be entitled to the payment of a bonus equivalent to one twelfth of his earnings for that year.

(b) The bonus required under paragraph (a) shall be paid by the employer as follows –

(i) a sum amounting to 75 per cent of the expected bonus required under paragraph (a) shall be paid to the worker not later than 5 clear working days before 25 December of that year; and

(ii) the balance shall be paid to him not later than on the last working day of the same year.

(2) Subsection (1) shall not apply to a worker whose conditions of employment are governed by the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983, the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985, the Field-Crop and Orchard Workers (Remuneration Order) Regulations 2008, the Livestock Workers (Remuneration Order) Regulations 2008 and the Bank Fishermen and Frigo-workers Remuneration Regulations 2016.

(3) Where a worker remains in continuous employment with the same employer for only part of the year and –

(a) his employment is terminated in the course of the year for any reason;

[Amended 15/21 (cio 5/8/21).]

(aa) his contract of employment comes to an end;

[Inserted 15/21 9 (cio 5/8/21).]

(b) he retires in the course of the year in accordance with the provisions of any agreement or enactment other than the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983 and the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985; or

(c) he resigns in the course of the year on or after having been in continuous employment for at least 8 months,

the worker shall be paid, not later than the last working day of the month in which his employment is terminated, he retires or resigns, as the case may be, a bonus equivalent to one-twelfth of his earnings for that year.

(4) In this section –

"worker" means a person drawing a monthly basic wage or salary of not more than 100,000 rupees;
[Inserted 7/2020 (cio 7/8/2020).]

"year" means a calendar year.

[S. 54 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s.94 of Act 15 of 2021 w.e.f. 5 August 2021.]

Section E – Death grant

55. Death grant

(1) Where a worker who has been in continuous employment with the same employer for not less than 12 consecutive months dies, the employer shall pay a death grant in the amount specified in the Fourth Schedule –

(a) to his spouse on production of a written statement by him that he was living with the deceased under a common roof at the time of death; or

(b) if he leaves no spouse, the person who satisfies the employer that he has borne the funeral expenses.

(2) In this section –

"spouse" means the person with whom the worker contracted a civil

or religious marriage and with whom the worker was living under a common roof at the time of the worker's death.

Section F – Other benefits

56. Meal and tea breaks

(1) Unless otherwise agreed, every employer shall grant to a worker on each working day –

(a) a meal break of one hour not later than after 4 consecutive hours of work; and

(b) one tea break of at least 20 minutes or 2 tea breaks of at least 10 minutes each.

(2) Any break under this section shall be without pay.

57. Medical facilities

(1) Every person who employs at least 10 workers shall provide appropriate arrangements for the medical and health requirements of the workers.

(2) (a) Where a worker suffers injury or illness at work and there is need to transport him back to his place of residence or to convey him to a hospital or other medical institution, the employer shall, as soon as reasonable and at his own expense, provide an appropriate means of conveyance for the worker.

(b) The worker referred to in paragraph (a) shall be accompanied by a person designated by the employer.

58. Tools

(1) Every employer shall provide to a worker the tools which may be required for the performance of work.

(2) The tools provided under subsection (1) shall –

(a) be replaced as soon as they become unserviceable; and

(b) remain the property of the employer.

59. Transport of workers

(1) An employer shall, where the distance between a worker's residence and his place of work exceeds 3 kilometres, provide the worker with free transport from his residence to his place of work and back, or pay him the equivalent of the return bus fare where he travels by bus, or light rail fare where he travels by light rail.

[Amended 15/21 (cio 5/8/21); 15/22 (cio 1/7/22).]

(2) An employer shall, irrespective of the distance between a worker's residence and his place of work, provide the worker with free transport from the worker's residence to his place of work and back, where the worker is required by his employer to attend or cease work at a time when no public transport service by bus or light rail is available.

[Amended 15/21 (cio 5/8/21).]

(3) (a) Subject to subsection (1), where a worker attends work by his own means of transport with the approval of his employer, the employer shall pay him the equivalent of the return bus fare or light rail fare, as the case may be.

[Amended 15/21 (cio 5/8/21); RR 15/22 (cio 1/7/22).]

(b) Where, in the course of his employment, a worker is called upon to attend duties from a site of work to another site of work at the request of the employer, the worker shall be paid the return bus fare or light rail fare, as the case may be, and if no bus or light rail service is available, the amount actually spent on transport.

[Amended 15/21 (cio 5/8/21).]

(4) Where an employer provides a worker with free transport in this section, the employer shall pay to the worker wages at the basic rate in respect of any waiting time exceeding 30 minutes after the worker has stopped work.

(5) No employer shall transport a worker or cause a worker to be transported from his residence to his place of work or from his place of work to his residence in a goods vehicle.

(6) Any vehicle, other than a bus or a motor car, used to transport a worker to and from his place of work, shall be licensed for that purpose by the National Transport Authority under the Road Traffic Act.

(7) Where a worker is granted, on a monthly basis, an allowance for petrol, by whatever name called by his employer, the allowance shall, as from 1 July 2023, be paid at a rate of at least 10 per cent higher than the allowance paid in December

2021, provided that the monthly increase in the allowance is not less than 1,000 rupees and does not exceed 2,000 rupees.

[Added 15/22 (cio 1/7/22); RR 12/2023 (cio 20/7/2023).]

[S. 59 amended by s.94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

60. Communication facilities

(1) Every employer shall provide to a watchperson, a security guard or security officer who is in his employment, a mobile phone for day and night duty and a monthly mobile allowance in such amount as specified in the Fourth Schedule.

(2) The mobile phone provided under subsection (1) shall remain the property of the employer.

PART VI – TERMINATION OF AGREEMENT AND REDUCTION OF WORKFORCE

Sub-Part I – Procedures relating to termination of agreement

61. Termination of agreement

(1) Every agreement entered into under section 13(1) shall terminate on the last day of the period agreed upon by the employer and the worker.

(2) A worker may claim that his agreement has been terminated by his employer where –

(a) the worker is ill-treated by the employer;

(b) the employer fails to pay the remuneration due under the agreement;

(c) the employer fails to provide work and to pay remuneration under an agreement; or

(d) the worker is made to resign by fraud or duress or is made to sign a letter of resignation or document in writing.

(3) An agreement shall not be broken by a worker where he absents himself from work for not more than 3 consecutive working days without good and sufficient cause for a first time.

(4) Subject to subsection (3), where a matter, in relation to the absence of a worker is referred to an officer or to the Court, the employer may not set up as a defence that the worker has abandoned his employment unless he proves that the worker has, after having been given written notice –

[Amended 15/21 (cio 5/8/21).]

(a) by post with advice of delivery; or

(b) by delivery at the residence of the worker,

requiring him to resume his employment, failed to do so within a time specified in the notice which shall not be less than 24 hours on receipt of the notice.

[S. 61 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021.]

62. Termination of appointment under the Constitution

(1) Subject to subsections (2) and (3), where an appointment is terminated under section 92 or 113 of the Constitution, the holder of the office whose appointment is terminated shall, notwithstanding any other enactment –

(a) where he has served for a period of 3 years or more, be eligible to compensation representing 3 months' salary;

(b) where he has served for a period of less than 3 years be eligible to compensation representing one month's salary.

(2) Notwithstanding anything to the contrary in any agreement, no gratuity or severance allowance shall be payable to the holder of any office the appointment to which is terminated under section 92 or 113 of the Constitution.

(3) Where the holder of an office to which subsection (1) applies was, immediately before his appointment to that office, the holder of a public office or in employment with a local authority or statutory body –

(a) he shall be entitled to resume his former office; or

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

63. Notice of termination of agreement

(1) Subject to section 61(1), a party to an agreement may, except where he is prohibited by an enactment from doing so, terminate the agreement on the expiry of a notice, given by him to the other party, of his intention to terminate the agreement.

(2) An employer shall, at the time of notifying a worker of the termination of his employment, state the reason of the termination.

(3) Notice may be verbal or written and may, subject to subsection (4), be given at any reasonable time.

(4) Notwithstanding any provision contrary in any agreement, the length of the notice to be given under subsection (1) shall not be less than 30 days.

(5) Any party may, in lieu of giving notice of termination of agreement, pay to the other party the amount of remuneration the worker would have earned had he remained in employment during the period of notice.

(6) An employer shall, during the period when a worker is under notice of termination of agreement under subsections (1) and (4), allow, on satisfactory proof of the purpose of the request, the worker reasonable time off, without loss of pay, to seek further employment.

(7) An employer who intends to terminate the employment of a migrant worker and to repatriate him shall, before the date of the repatriation –

(a) give at least 20 working days' written notice to the supervising officer of the Ministry responsible for the subject of employment;

(b) pay the worker any unpaid remuneration; and

(c) ensure that the worker has been paid all benefits to which he is entitled under any other enactment.

[Added 11/24 (cio 27/7/24).]

[S. 63 amended by s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

64. Protection against termination of agreement

(1) An agreement shall not be terminated by an employer by reason of –

(a) a worker's race, colour, caste, national extraction, social origin, place of his origin, age, pregnancy, religion, political opinion, sex, sexual orientation, gender HIV status, impairment, marital status or family responsibilities;
[Amended 7/2020 (cio 7/8/2020).]

(b) a worker's absence from work during maternity leave and for the purpose of nursing her unweaned child;

(ba) a worker's absence from work during paternity leave;
[Inserted 11/24 (cio 27/7/24).]

(c) a worker's temporary absence from work because of injury or sickness duly notified to the employer and certified by a medical practitioner;

(ca) a worker's performance at work being affected as a result of an injury sustained out of and in the course of work, where the worker produces a medical evidence from a Government medical practitioner that he has not fully recovered from the injury;
[Inserted 15/22 (cio 1/7/22).]

(d) a worker becoming or being a member of a trade union, seeking or holding of trade union office, or participating in trade union activities outside working hours or, with the consent of the employer, within working hours;

(e) a worker, in good faith, filing a complaint, or participating in proceedings, against an employer, involving alleged breach of any terms and conditions of employment;

(f) a worker exercising any of the rights provided for in this Act or any other enactment, or in any agreement, collective agreement or award.

(1A) (a) Subject to subsection (2), an agreement shall not be terminated by an employer during any month in respect of which the employer is in receipt of financial assistance.

(b) In this subsection –

"financial assistance" includes –

(a) the allowance payable under the Wage Assistance Scheme pursuant to section 150B of the Income Tax Act; or

(b) such other financial assistance which is paid to an employer by the State or an agent of the State, as the case may be, under any other enactment or otherwise.

[Amended 1/2020 (cio 23/3/2020).]

(2) Subject to subsection (3), no employer shall terminate a worker's agreement –

(a) for reasons related to the worker's alleged misconduct, unless –

(i) the employer has, within 10 days of the day on which he becomes aware of the alleged misconduct, notified the worker of the charge made against the worker;

(ii) the worker has been given an opportunity to answer any charge made against him in relation to his alleged misconduct –

(A) an oral hearing only; or
[RR 12/2023 (cio 20/7/2023).]

(B) in an oral hearing following his answer in writing;
[RR 15/22 (cio 1/7/22); RR 12/2023 (cio 20/7/2023).]

(iii) the worker has been given at least 7 days' notice to answer any charge made against him in the oral hearing;
[Amended 12/2023 (cio 20/7/2023).]

(iv) the employer cannot in good faith take any other course of action; and

(v) the termination is effected not later than 7 days after the worker has answered the charge made against him in an oral hearing.
[RR 12/2023 (cio 20/7/2023).]

(aa) –
[Inserted 15/22 (cio 1/7/22); RR 12/2023 (cio 20/7/2023).]

(b) unless, where at the time the employer becomes aware of the conviction of the worker by the Court of first instance in respect of a charge of alleged misconduct which was the subject of criminal proceedings, the worker was in employment or under suspension –

[Amended 15/22 (cio 1/7/22).]

(i) the employer, has within 10 days of the day on which he becomes aware of the conviction of the worker by the Court of first instance, notified the worker of the charge made against the worker;

(ii) the worker has been given an opportunity to answer any charge made against him in relation to his alleged misconduct –

(A) an oral hearing only; or

(B) in an oral hearing following his answer in writing;

[RR 15/22 (cio 1/7/22); RR 12/2023 (cio 20/7/2023).]

(iii) the worker has been given at least 7 days' notice to answer the charge made against him in the oral hearing; and

[Amended 12/2023 (cio 20/7/2023).]

(iv) the termination is effected not later than 7 days after the worker has answered the charge made against him in an oral hearing;

[Amended 15/21 (cio 5/8/21); RR 15/22 (cio 1/7/22); RR 12/2023 (cio 20/7/2023).]

(ba) –

[Inserted 15/22 (cio 1/7/22); R 12/23 (cio 20/7/2023).]

(c) in cases not covered by paragraph (a) or (b) unless the termination is effected not later than 7 days after the day the employer becomes aware of the misconduct.

[Amended 15/21 (cio 5/8/21).]

(3) Before a charge of alleged misconduct is levelled against a worker, an employer may carry out an investigation into all the circumstances of the case and the period specified in subsection (2)(a)(i) or (b)(i) shall not commence to run until the completion of the investigation.

(4) Where an investigation carried out under subsection (3) discloses a suspected misconduct, the employer may formulate a charge against the worker.

(5) For the purpose of an oral hearing, the employer shall, at the request of the worker, make available for inspection to him or his representative, prior to the holding of the disciplinary hearing, such information or documents, as may be relevant to the charge, which the employer intends to adduce in evidence in the course of the hearing.

[RR 12/2023 (cio 20/7/2023).]

(6) No employer shall terminate a worker's agreement for reasons related to the worker's poor performance, unless –

(a) the worker has been given an opportunity to answer any charge made against him in relation to his alleged poor performance and the worker has been given at least 7 days' notice to answer any charge against him –

(i) in an oral hearing only; or

[RR 12/2023 (cio 20/7/2023).]

(ii) in an oral hearing following his answer in writing;

[RR 15/22 (cio 1/7/22); 12/2023 (cio 20/7/2023).]

(aa) –

[Inserted 15/22 (cio 1/7/22); R 12/2023 (cio 20/7/2023).]

(b) the worker has been given at least 7 days' notice to answer any charge made against him in the oral hearing;

[Amended 12/2023 (cio 20/7/2023).]

(c) he cannot, in good faith, take any other course of action;

(d) the termination is effected not later than 7 days after the completion of the hearing under paragraph (a).

[Amended 15/21 (cio 5/8/21).]

(7) Where the opportunity afforded to a worker to answer any charge made against him under subsection (2)(a)(ii) or (b)(ii) or (6)(a) is the subject of a disciplinary hearing, he may have the assistance of –

(a) a representative of a trade union or a legal representative, or both; or

(b) an officer, where he is not assisted as specified in paragraph (a).

(8) The worker and the employer may, during disciplinary hearing referred to in subsection (7), negotiate for the payment of a compensation to promote a settlement.

(9) Any written statement acknowledging guilt by a worker obtained at the instance of his employer shall not be admissible as evidence before a disciplinary hearing, or any authority or any Court.

(10) An employer shall, within 7 days of the receipt of a from or on behalf of the worker, give a copy of the minutes of proceedings of the disciplinary hearing –

[Amended 15/21 (cio 5/8/21).]

(a) to the worker who has appeared before a disciplinary hearing; and

(b) to the person assisting the worker in the disciplinary hearing.

(11) (a) The disciplinary hearing initiated against a worker under this section shall be completed within 30 days of the date of the first oral hearing save and except, and subject to paragraph (b), where owing to the illness or death of any of the parties or witnesses, or the reconstitution of the disciplinary panel or change in the legal or other representatives of the parties, such hearing cannot be completed during that delay.

(b) The parties may agree to extend the delay referred to in paragraph (a), provided that the disciplinary hearing is completed not later than 60 days of the date of the first oral hearing.

[Amended 15/21 (cio 5/8/21).]

[S. 64 amended by s. 57(g) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

65. Notification of charge

(1) A notification of a charge, a notice to answer a charge and a notification of a termination of agreement shall be issued by –

(a) causing the notification or notice to be handed over to the worker in person; or

(b) sending the notification or notice by registered post to the usual

or last known place of residence of the worker.

(2) Where a worker –

(a) refuses to accept delivery of the notification or notice; or

(b) fails to take delivery of the notification or notice after being notified that it awaits him at a specified post office,

the notification or notice shall be deemed to have been duly served on the worker on the day he refuses to accept delivery thereof or is notified that it awaits him at the specified post office.

66. Suspension

(1) Where an employer suspends a worker pending the outcome of –

(a) an investigation carried out under section 64(3); or

(b) disciplinary proceedings carried out on account of the worker's alleged misconduct or poor performance,

the employer shall pay the worker his basic salary for the period of suspension.

[RR 15/21 (cio 5/8/21).]

(2) No employer shall suspend a worker unless he has informed the worker of the reason for his suspension in writing.

(3) Any suspension without pay as disciplinary sanction following a hearing shall not exceed 4 working days.

[S. 66 of Act 15 of 2021 w.e.f. 5 August 2021.]

67. Employment following transfer of undertaking

(1) Where following a transfer or taking over of a trade or business by a new employer, a worker is offered employment on terms and conditions which are not less favourable than those of his previous agreement and the worker accepts the offer of employment, the worker's employment with the new employer shall be deemed to be continuous.

(2) Where a worker to whom an offer is made under subsection (1) refuses the offer, the worker shall not be entitled to claim that his employment has been terminated without justification.

(3) Where a transfer or taking over of a trade or business involves a substantial change in the working conditions of a worker, the worker may claim that his contract of employment has been terminated by the new employer without justification.

(4) Where either pending a transfer or taking over of a trade or business or after a transfer or taking over of a trade or business, the employment of any worker of the transferor or transferee is terminated, the termination shall, subject to section 64, be deemed to be without justification where the ground of the termination is other than economic, technological or structural ground.

(5) In this section, the trade or business of an employer is deemed to have been transferred or taken over by another employer where –

(a) an employer dies and the business is forthwith being taken over by the personal representative or heir of the employer after the death;

(b) a partnership ceases and the business is forthwith being taken over by a member of the dissolved partnership or a new partnership after the dissolution;

(c) a body corporate is dissolved and the business is forthwith being taken over by some other body corporate in accordance with an enactment or a scheme of reconstruction after the dissolution;

(d) the goodwill of the whole or part of a business has been disposed of and taken over by another person;

(e) the owner of a leased undertaking takes over the management following a breach of the lease by the lessee;

(f) the business was disposed of as an ongoing concern and its activities or operations are continued or resumed by a new employer with same or similar activities;

(g) the company of an employer is merged with that of another employer.

(6) The Minister may, by regulations –

(a) exempt an employer who provides services in the sectors specified in the Third Schedule to the Employment Relations Act from the application of section 67; and

(b) make provisions for the terms and conditions on which a worker may be offered employment by a new employer following a transfer of undertaking or taking over of the trade or business of his former previous employer.

[Added 1/2020 (cio 23/3/2020).]

[S. 67 amended by s. 57(h) of Act 1 of 2020 w.e.f. 23 March 2020.]

68. Certificate of employment

(1) Every employer shall provide a worker, whose employment has been terminated or who has resigned from his employment, with a certificate of employment bearing the seal of the company, wherever applicable, in the form set out in the Fifth Schedule within 7 days of the termination of his employment.

(2) No employer shall insert in the certificate issued under subsection (1) any particulars other than those specified in the Fifth Schedule.

Sub-Part II – Severance Allowance

69. Payment of severance allowance

(1) Subject to subsections (2) and (3A), an employer shall pay severance allowance to a worker at the rate specified in section 70 where the worker has been in continuous employment for a period of not less than 12 continuous months with the employer –

[Amended 15/21 (cio 5/8/21).]

(a) on a contract of indeterminate duration and that employer terminates his agreement in circumstances specified in section 70(1); or

[Amended 15/21 (cio 5/8/21).]

(b) under one or more fixed-term contract with the same employer and the employer terminates his agreement in circumstances specified in section 70(1);

[RR 15/21 (cio 5/8/21).]

(2) No severance allowance shall be payable to a migrant worker or a non-citizen employed under one or more contracts of fixed duration at the expiry of his

contracts.

[RR 15/21 (cio 5/8/21).]

(3) No severance allowance shall, unless otherwise agreed by the parties, be payable where a worker and an employer enter into an agreement under section 13(1) and the agreement comes to an end.

(3A) (a) Where a worker whose basic wage or salary exceeds 600,000 rupees in a year is paid, at the end of every period of 12 months or at the end of each contract of employment of a determinate duration, a gratuity, compensation or such other payment, by whatever name called, in lieu of pension or in respect of his length of service, the worker shall not be entitled to the payment of any severance allowance on the expiry of each contract or the last contract.

(b) Notwithstanding this Act and any other enactment, a worker referred to in paragraph (a) shall not be considered to be in continuous employment where he is employed successively under one or more contracts of a determinate duration.

[Inserted 15/21 (cio 5/8/21); amended 12/2023 (cio 20/7/2023).]

(4) Where a worker claims severance allowance under subsection (1), the supervising officer shall enquire into the matter with a view to promoting a settlement.

(5) Where the matter under subsection (4) does not result in being satisfactorily settled, the supervising officer may enter proceedings before the Court if he is of the opinion that the worker has a bona fide case.

[S. 69 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

69A. Reinstatement

(1) Where an employer terminates the employment of a worker for any reason, other than reasons related to reduction of workforce or closure of enterprises under Sub-part III, the worker may, instead of claiming severance allowance under section 69(4), register a complaint with the supervising officer to claim reinstatement.

(2) The supervising officer shall enquire into the complaint and where he is of the opinion that the worker has a bona fide case for reinstatement, he may refer the complaint to the Tribunal.

[RR 12/2023 (cio 20/7/2023).]

(2A) (a) The supervising officer shall not, unless good cause is shown, refer any complaint to the Tribunal under this section where the worker registers the complaint after 15 days of the date of termination of his employment.

(b) The supervising officer shall refer the complaint to the Tribunal not later than 30 days after the date of registration of the complaint.

(c) In paragraph (a) –

"good cause" means illness or injury certified by a Government medical practitioner.

[Inserted 12/2023 (cio 20/7/2023).]

(3) In this section –

"reinstatement" means the reinstatement of a worker, by his employer, back to the worker's former position before the termination of his employment for any reason, other than reasons related to reduction of workforce or closure of enterprises under Sub-part III of this Part.

[RR 12/2023 (cio 20/7/2023).]

[S. 69A. inserted by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

70. Amount of severance allowance

(1) Where a worker has been in continuous employment for a period of at least 12 months with an employer, the Court may, where it finds that –

(a) the termination of agreement of the worker was due to the reasons specified under section 61(2);

(b) the termination of agreement of the worker was in contravention of section 64(1), (1A), (2), (5), (6) or (9);

[Amended 1/2020 (cio 23/3/2020).]

(c) the reasons related to the worker's alleged misconduct or poor performance under section 64(2) and (6) does not constitute valid grounds for the termination of employment of the worker;

(d) the employer could have in good faith taken any other course of action instead of terminating the employment of the worker;

(e) notwithstanding paragraphs (a), (b), (c) and (d), the termination of agreement of the worker was unjustified,

order that the worker be paid severance allowance –

(i) for every period of 12 months of continuous employment, a sum equivalent to 3 months' remuneration; and

(ii) for any additional period of less than 12 months, a sum equal to one twelfth of the sum calculated under subparagraph (i) multiplied by the number of months during which the worker has been in continuous employment of the employer.

(2) The Court may, where it thinks fit and, whether or not a claim to that effect has been made, order an employer to pay interest at a rate not exceeding 12 per cent in a year on the amount of severance allowance payable from the date of the termination of the agreement to the date of payment.

(3) For the purpose of this section, a month's remuneration shall be –

(a) the remuneration drawn by the worker for the last complete month of his employment; or

(b) an amount computed in the manner as is best calculated to give the rate per month at which the worker was remunerated over a period of 12 months before the termination of his agreement, including payment for extra work, productivity bonus, attendance bonus, commission in return for services and any other regular payment,

whichever is higher.

[S. 70 amended by s. 57(j) of Act 1 of 2020 w.e.f. 23 March 2020.]

71. Deductions from severance allowance

(1) An employer may deduct from the severance allowance payable –

(a) any gratuity granted by the employer;

(b) any contribution made to any fund or scheme by the employer;

(c) contributions made under the Portable Retirement Gratuity Fund.

(2) In this section –

"fund" or "scheme" means any pension or provident fund or scheme set up by the employer for the benefit of a worker and which purports to provide retirement benefits to the worker;
[Amended 15/21 (cio 5/8/21).]

"gratuity" includes a gratuity, a compensation or such other payment, by whatever name called, referred to in section 69(3A).
[Added 15/21 (cio 5/8/21).]

[S. 71 amended by s. 94 of Act 15 of 2021 w.e.f 5 August 2021.]

Sub-Part III – Reduction of Workforce and Closure of Enterprises

72. Reduction of workforce

(1) Subject to subsection (1A) and section 72A, an employer who intends to reduce the number of workers in his employment, either temporarily or permanently, or close down his enterprise, shall, except in case of force majeure, notify and negotiate with –
[Amended 1/2020 (cio 23/3/2020); 7/2020 (cio 7/8/2020).]

(a) the trade union, where there is a recognised trade union;

(b) the trade union having a representational status, where there is no recognised trade union; or

(c) the workers' representatives, elected by the workers where there is no recognised trade union or a trade union having representational status,

to explore the possibility of avoiding the reduction of workforce or closing down by means of –

(i) restrictions on recruitment;

(ii) retirement of workers who are beyond the retirement age;

(iii) reduction in overtime;

(iv) shorter working hours to cover temporary fluctuations in manpower needs;

(v) providing training for other work within the same undertaking; or

(vi) redeployment of workers where the undertaking forms part of a holding company.

(1A) (a) Subject to paragraph (b), an employer shall, during such period as may be prescribed, not reduce the number of workers in his employment either temporarily or permanently or terminate the employment of any of his workers or close down his enterprise.

[Amended 15/21 (cio 5/8/21).]

(b) Paragraph (a) shall not apply to –

(i) an employer specified in section 72A; or

(ii) an employer who has applied for any of the financial assistance schemes set up by the institutions listed in the Tenth Schedule for the purpose of providing financial support to an enterprise adversely affected by the consequences of the Covid-19 virus and his application has not been approved.

(c) In this subsection –

"Covid-19 virus" means the novel Coronavirus (2019-nCoV).

[Inserted 7/2020 (cio 7/8/2020).]

(2) In this section –

"employer" means a person employing not less than 15 workers in an undertaking or an undertaking having an annual turnover of at least 25 million rupees;

"recognised trade union" means a trade union which has been granted recognition under the Employment Relations Act;

"representational status" means a registered trade union representing a worker in defence of his legal rights under section 31A of the Employment Relations Act.

(3) Where the intended reduction of workforce or closure is the subject of negotiation under subsection (1), the recognised trade union, the trade union having representational status or the workers' representatives may agree with the employer on any of the possibilities specified in subsection (1) or on any alternative solution or on the payment of a compensation by way of a settlement.

(4) The supervising officer may, at the request of any of the parties specified in subsection (1), provide a conciliation service to assist parties in the negotiation in view of an agreement.

(5) Where no agreement is reached under subsection (3) or (4), or where there has been no negotiation, an employer who takes a course of action as specified in subsection (1), shall give written notice to the Redundancy Board set up under section 73, together with a statement showing cause for the reduction or closure at least 30 days before the intended reduction or closing down, as the case may be.

(5A) (a) Subject to subsections (1) and (3), an employer who intends to reduce the number of workers in his employment on the ground of restructuring for financial reasons, may, instead of applying for financial assistance under subsection (1A)(b)(ii), give written notice to the Redundancy Board, together with a statement containing the information specified in paragraph (c), at least 30 days before the intended reduction.

(b) The Board shall entertain a notification for an intended reduction given under paragraph (a) where it is satisfied that –

(i) the enterprise is over-indebted and not economically viable and any further debt would increase the risk of the enterprise being insolvent; and

(ii) the restructuring may enable the enterprise to manage the repayment of its debts without being insolvent and to dispose of adequate cash flow to continue its operations.

(c) An employer who gives written notice under this section shall submit to the Board, in addition to the following information and documents, such additional information and documents as the Board may require –

(i) information on the debtor's assets and liabilities at the time of the application;

(ii) information on the financial situation of the debtor and causes and extent of the difficulties of the debtor;

(iii) documentary evidence that the decision for restructuring and the restructuring plan have been approved by the Board of Directors of the enterprise or by the person in charge of the enterprise, as the case may be;

(iv) a statement as to why the restructuring plan has a reasonable prospect of preventing insolvency and saving jobs;

(v) the number of jobs to be saved.

(d) Where the employer fails to provide the information and documents specified in paragraph (c), the reduction of workforce shall be deemed to be unjustified.

[Inserted 15/21 (cio 5/8/21).]

(6) An employer shall not reduce the number of workers in his employment either temporarily or permanently before the time specified in section 75(8) and (9).

(7) A reduction of workforce or a closing down of an enterprise shall be deemed to be unjustified where the employer acts in breach of subsection (1), (1A),(5) or (6).

[Amended 7/2020 (cio 7/8/2020).]

(8) Where the employment of a worker is terminated in breach of subsection (1), (1A), (5), (5A) or (6), or where an employer has failed to comply with an order of the Board under subsection (9), the worker may apply to the Board for an order directing his employer –

(a) to reinstate him in his former employment with payment of remuneration from the date of the termination of his employment to the date of his reinstatement; or

(b) to pay him severance allowance at the rate specified in section 70(1).

[RR 7/2020 (cio 2/6/2020); RR 15/22 (cio 1/7/22).]

(9) Where the Board finds that the reasons of the notification made under subsections (5) or (5A) are unjustified, the Board shall make an order for the employer not to reduce his workforce or close down his enterprise.

[RR 15/22 (cio 1/7/22).]

(10) Where the Board finds that the termination of employment referred to in subsection (8) is unjustified or where the employer has failed to comply with an order of the Board under subsection (9), the Board shall –

(a) with the consent of the worker, order the employer to reinstate the worker in his former employment, with payment of remuneration from the date of termination to the date of his reinstatement; or

(b) subject to paragraph (a), order the employer to pay the worker severance allowance at rate specified in section 70(1).

[RR 12/2023 (cio 20/7/2023).]

[RR 1/2020 (cio 23/3/2020); amended 7/2020 (cio 7/8/2020); RR 15/22 (cio 1/7/22) .]

(10A) Where the Board finds that the termination of employment is justified, it shall make an order accordingly.

[Inserted 12/2023 (cio 20/7/2023).]

(11) Where, following an order of the Board under subsection (10A), an employer terminates the employment of a worker, the worker shall be entitled to 30 days' wages as indemnity in lieu of notice.

[RR 15/22 (cio 1/7/22); amended 12/2023 (cio 20/7/2023).]

(11A) Where a worker is paid severance allowance under subsection (8) or (10), the employer may deduct the contributions payable into the Portable Retirement Gratuity Fund from the amount of severance allowance paid to the worker.

[Inserted 7/2020 (cio 7/8/2020).]

(12) Where the Board makes an order under subsections (10) and (11), the order shall be enforced in the same manner as an order of the Industrial Court.

[S. 72 amended by s. 57(j) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 2 June 2020 and 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

72A. Reduction of workforce in certain enterprises in the services sector

(1) The Minister may, by regulations, exempt an employer who provides services in the sectors specified in the Eleventh Schedule from the application of section 72.

[Amended 7/2020 (cio 7/8/2020).]

(2) Where an employer who has been exempted pursuant to subsection (1) intends to reduce the number of workers in his employment, either temporarily or permanently, or close down his enterprise, the employer shall give written notice to the Board, together with a statement showing cause for the reduction or closure at least 15 days before the intended reduction or closing down, as the case may be.

(3) Notwithstanding section 75(8) and (9), the Board shall complete its proceedings within 30 days from the date of notification by the employer.
[Amended 12/2023 (cio 20/7/2023).]

(4) (a) Subject to paragraph (d), where the Board finds that the reasons for the reduction of the workforce or the closing down are justified, the Board shall order that the worker shall be paid 30 days' wages as indemnity in lieu of notice.
[Amended 15/21 (cio 5/8/21)

(b) Where the Board finds that the reasons for the reduction of the workforce or the closing down are unjustified, the Board shall order the employer to pay to the worker severance allowance at the rate specified in section 70(1).
[Amended 7/2020 (cio 7/8/2020).]

(c) Where a worker is paid severance allowance under paragraph (b), the employer may deduct the contributions payable to the Portable Retirement Gratuity Fund from the amount of severance allowance paid to the worker.
[Added 7/2020 (cio 7/8/2020).]

(d) Where a notice of intended reduction of workforce related to a business organisation is given to the Board, and the Board is satisfied that the procedure adopted by the employer for the reduction of workforce is in the best interest of the business, the Board shall not order the employer to pay severance allowance.
[Added 15/21 (cio 5/8/21).]

(5) Where the Board finds that the reasons for the reduction of the workforce or the closing down are justified under subsection 4(a), the Board shall, in lieu of the termination of employment, at the request of the employer and subject to the consent of the worker concerned, order that the worker, or such category of workers as the employer may designate, shall proceed on leave without pay for such period as the employer may specify in his notification subject to the condition that the resumption of employment be on such new terms and conditions, including pension benefits, as the employer may, prior to resumption of work, offer to the worker.

(6) Where the Board makes an order under subsection (4) or (5), the order shall be enforced in the same manner as an order of the Industrial Court.

[S. 72A inserted by s. 57(k) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

73. Redundancy Board

(1) There shall be a Redundancy Board which shall deal with all cases of reduction of workforce and closure of enterprises for economic, financial, structural, technological or any other similar reasons.

(2) The Board shall consist of –

(a) a President;

(b) a Vice-president;

(c) a representative of the Ministry;

(d) a representative of the Ministry responsible for the subject of finance and economic development;

(e) a representative of employers, to be appointed by the Minister for a period of one year;

(f) a representative of workers, to be appointed by the Minister for a period of one year;

(g) an economist; and

(h) an accountant.

(3) A person shall not be appointed President or Vice-president of the Board unless he is qualified for appointment as a Judge of the Supreme Court or has held judicial office.

(4) The President and the Vice-president shall be appointed by the Minister on such terms and conditions, and for such period, as he may determine.

(5) The economist and the accountant shall be public officers and shall be designated by the Secretary to Cabinet and Head of the Civil Service.

(6) The appointment of every member of the Board shall be published in the Gazette.

(7) The Redundancy Board shall deal with all cases referred to the Board under section 72.

74. Functions of Board

(1) The Board shall –

(a) subject to subsection (1A), make orders in relation to the reduction of workforce or closing down of enterprise;
[Amended 15/21 (cio 5/8/21).]

(b) subject to subsection (1A), make such orders for requiring the attendance of any person and the production of any document as it may determine; and
[Amended 15/21 (cio 5/8/21).]

(c) take evidence on oath, and for that purpose administer oaths.

(1A) (a) Where a notice is given to the Board under section 72(5) or (5A), the Board may –

(i) with a view to promoting a settlement; and

(ii) with the consent of the parties,

provide a conciliation or mediation service to the parties within the delay specified in section 75(8) or (9).

(b) The Board may, in the course of any conciliation or mediation conducted under paragraph (a), explore the possibility of –

(i) the workers being reinstated by the employer or re-engaged in another enterprise;

(ii) providing training at the cost of the employer to develop their employability; or

(iii) the employer paying to the workers a compensation of not less than 15 days' remuneration for every period of 12 months of continuous employment, where the reduction is considered to be justified.

(c) (i) Where the parties reach a settlement as specified in paragraph (a), an agreement shall be drawn up in writing and signed or marked by the parties and shall be enforced in the same manner as an order of the Industrial Court.

[Amended 15/22 (cio 1/7/22).]

(ii) The agreement shall have the same effect as an order of the Board.

(d) (i) Where no agreement is reached, the Board shall continue and complete its proceedings within the delay specified in section 75(8) or such longer delay as the parties may agree.

(ii) Where the Board finds that the reasons for the reduction or closing down are unjustified, the Board shall make an order in accordance with section 72(10).

[Inserted 15/21 (cio 5/8/21).]

(2) Any person whose attendance is required under subsection (1)(b) and who –

(a) fails to attend at the time and place specified in the order;

(b) refuses to answer faithfully any question put to him by the Board;

(c) gives any false or misleading information;

(d) refuses to produce a document required by the Board,

shall commit an offence.

[S. 74 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s81 of Act 15 of 2022 w.e.f. 1 July 2022.]

75. Organisation and sitting of Board

(1) The Board shall have an official seal.

(2) The Board may sit –

(a) in one or more Divisions as may be necessary;

(b) at any time and at any place in Mauritius.

(3) (a) Each Division of the Board shall be presided by the President or the Vice-president.

(b) Where it appears to the President or to the Vice-president that it is expedient to do so, 2 assessors with proven experience in industrial relations to assist the members of the Board may be appointed.

(4) The assessors specified in subsection (3)(b) shall be designated by the Minister after consultation with the representative of employers and representative of workers as he considers appropriate.

(5) At any meeting of the Board, the President or the Vice-President and 2 other members shall constitute a quorum.

(6) Any order of the Board shall be that of the members and, in the event of an equality of votes, the President or Vice-president, as the case may be, shall have a casting vote.

(7) The Board shall regulate its proceedings in such manner as it may determine.

(8) The Board shall complete its proceedings within 60 days from the date of notification by the employer.
[Amended 12/2023 (cio 20/7/2023).]

(9) The Board may extend the period specified in subsection (8) and 72A(3) for such longer period as may be agreed by the parties to allow the Board to complete its proceedings.
[Amended 15/21 (cio 5/8/21).]

[S. 75 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021.]

PART VII – WORKFARE PROGRAMME FUND

Sub-Part I – Workfare Programme Fund

76. Establishment of Workfare Programme Fund

(1) There shall be, within the Ministry responsible for the subject of social security, the Workfare Programme Fund.

(2) Subject to subsection (3), the surplus money of the Workfare Programme Fund shall, after consultation with the Workfare Programme Fund

Committee, be invested in such manner as the Minister to whom responsibility for the subject of social security is assigned may approve.

(3) The Workfare Programme Fund shall, in any proceedings, judicial or otherwise, be represented by the supervising officer.

(4) Where the Workfare Programme Fund is wound up, its assets and liabilities shall accrue to the Consolidated Fund.

77. Objects of Workfare Programme Fund

The objects of the Workfare Programme Fund shall be to pay –

(a) any transition unemployment benefit;

(b) remuneration due to a worker where an enterprise is considered to be insolvent in case of force majeure;
[Amended 12/2023 (cio 20/7/2023).]

(c) the amount representing the balance between the industrial injury benefit calculated in accordance with section 25(2) of the Social Contribution and Social Benefits Act 2021 and the maximum appropriate basic wage or salary specified in Part II of the First Schedule to the Social Contribution and Social Benefits Act 2021; and
[RR 15/22 (cio 1/7/22).]

(d) the financing of such social plan for the benefit of workers as may be prescribed.
[Amended 7/2020 (cio 7/8/2020).]

[S. 77 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s.81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

78. Payment into and out of Workfare Programme Fund

(1) There shall be paid into the Workfare Programme Fund –

(a) money collected by way of levy at the rates specified in the Second Schedule to the Human Resource Development Act;

(b) all monies appropriated by the National Assembly for the purposes of the Workfare Programme Fund;

(c) interests on investment.

(2) There shall be paid out of the Workfare Programme Fund –

(a) any transition unemployment benefit at the rate specified in the Sixth Schedule;

(b) unpaid remuneration in accordance with section 42(1) and (6);

(c) the amount representing the balance between the industrial injury benefit calculated in accordance with section 25(2) of the Social Contribution and Social Benefits Act 2021 and the maximum appropriate basic wage or salary specified in Part II of the First Schedule to the Social Contribution and Social Benefits Act 2021;

[RR 15/22 (cio 1/7/22).]

(d) the funding of such social plan for the benefit of workers as may be prescribed;

[Amended 7/2020 (cio 7/8/2020).]

(e) all expenses incurred in the administration of the Workfare Programme Fund.

[S. 78 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

79. Contribution to Workfare Programme Fund

(1) Every employer shall, in respect of a worker in his employment, pay to the supervising officer of the Ministry responsible for the subject of social security a contribution to be paid into the Workfare Programme Fund in accordance with the rate specified in the Seventh Schedule and in such manner and at such intervals as may be prescribed.

(2) Every employer shall, at the time of payment of the basic wage or salary to a worker for any period, deduct a sum representing one per cent of the basic wage or salary and pay over that sum to the supervising officer of the Ministry responsible for the subject of social security for credit into the National Savings Fund, in accordance with section 5B(1)(b) of the National Savings Fund Act.

Sub-Part II – Workfare Programme Fund Committee

80. Workfare Programme Fund Committee

(1) There shall be, for the purposes of this Part, a Workfare Programme Fund Committee.

(2) The Workfare Programme Fund Committee shall consist of –

(a) a chairperson, to be appointed by the Minister;

(b) a representative of the Ministry responsible for the subject of finance;

(c) a representative of the Ministry;

(d) 2 representatives of the workers' organisation, to be appointed by the Minister after consultation with the most representative workers' organisation;

(e) 2 representatives of the employers' organisation, to be appointed by the Minister after consultation with the employers' organisation; and

(f) the administrator of the Workfare Programme Fund.

81. Functions of Workfare Programme Fund Committee

(1) The functions of the Workfare Programme Fund Committee shall be to –

(a) administer and manage the Workfare Programme Fund, including investment policies;

(b) ensure that the investments of the Workfare Programme Fund are consistent with prudent investment policy;

(c) preserve the need for an appropriate level of liquidity in the Workfare Programme Fund;

(d) have regard to the need to secure the future value of the Workfare Programme Fund; and

(e) monitor the payment of the transitional unemployment benefit.

(2) The Workfare Programme Fund Committee may require its administrator to submit any report considered necessary concerning the financial position of the Workfare Programme Fund.

(3) The supervising officer may, on the recommendation of the Workfare Programme Fund Committee, advise the Minister on any matter relating to the Workfare Programme Fund.

Sub-Part III – Actuarial Valuation and Financial Statements of Workfare Programme Fund

82. Actuarial valuation of Workfare Programme Fund

(1) The Minister shall, at intervals of not more than 5 years, or at such shorter interval –

(a) cause an actuarial evaluation of the Workfare Programme Fund to be made by such actuary as he may appoint; and

(b) determine, in the light of the evaluation, whether an adjustment is necessary to secure the future evaluation of the Workfare Programme Fund.

(2) In this section –

"actuarial evaluation" means a written report prepared and signed by an actuary, including any development affecting the Workfare Programme Fund and technical provisions since the last actuarial evaluation was prepared.

83. Financial statements of Workfare Programme Fund

(1) The Workfare Programme Fund Committee shall, not later than 3 months after the end of every financial year, submit to the Director of Audit the financial statements of the Workfare Programme Fund for auditing.

(2) The Director of Audit shall, as soon as practicable, submit the statements under subsection (1) duly audited, together with his audit report, to the Workfare Programme Fund Committee.

(3) The Workfare Programme Fund Committee shall, on receipt of the statements and audit report referred to in subsection (2), submit a certified copy thereof to the Minister.

(4) The Minister shall, at the earliest available opportunity, lay a copy of the audited statements and the audit report submitted under subsection (3) before the National Assembly.

Sub-Part IV – Transition Unemployment Benefit, Industrial Injury Allowance and Recovery of Overpayment

84. Transition unemployment benefit

(1) A worker shall be entitled to a transition unemployment benefit where –

(a) his agreement is terminated by an employer –

(i) for the reason specified in section 61(2);

(ii) in contravention of section 64(1), (1A), (2) or (6);
[Amended 1/2020 (cio 23/3/2020).]

(iii) for any other reason, whether justified or not; and

(b) work has ceased for reasons of –

(i) force majeure;

(ii) death of the employer; or

(iii) a company removed from the register under the Companies Act;

(ba) where he proceeds on leave without pay pursuant to an order made by the Board under the section 72A(5) and he has not taken other employment during that period of leave without pay;
[Inserted 1/2020 (cio 23/3/2020).]

(c) no termination letter has been issued and the supervising officer is of the opinion that the complaint is bona fide;

(d) he has registered himself with the supervising officer within a period of 60 days following the termination of his employment;
[Amended 15/21 (cio 5/8/21).]

(e) he has, registered himself with the supervising officer after the period specified in paragraph (d) and has shown cause, certified by a medical certificate, that –

(i) he was admitted to a hospital or other medical institution in Mauritius or abroad for treatment in connection with an illness or injury before the expiry of the specified period and he was discharged after the expiry of that period;

(ii) he has been granted sick leave for the purpose of convalescence after his discharge or was on sick leave immediately after his discharge; or

(iii) he was bedridden during the specified period.
[Added 15/21 (cio 5/8/21).]

(2) A worker shall be entitled to a transition unemployment benefit for a period of not less than one month nor more than 12 months at the rates specified in the Sixth Schedule.

(2A) Notwithstanding subsections (2) and (10), but subject to subsection (7), where, following the expiry of the COVID-19 period for the year 2020, the employment of a worker is terminated for any reason and the worker reckons at least 30 days' and less than 180 days' continuous employment with the same employer as at the date of the termination of his employment, whether on a fixed term agreement or not, the worker shall be entitled to the payment of a transition unemployment benefit of 5,100 rupees per month for the period starting on 1 July 2020 and ending on 31 December 2020.
[Inserted 7/2020 (cio 7/8/2020); amended 15/21 9cio 5/8/21).]

(3) Where a worker registers himself within 30 days of the date of his termination of employment, he shall be entitled to a transition unemployment benefit accruing as from the beginning of the month in which his employment is terminated or where he has been given a notice of termination on the expiry of the notice.

(4) (a) Subject to subsection (3), where the worker registers himself after 30 days of the date of his termination of employment, he shall be entitled to a transition unemployment benefit accruing as from date of his registration unless good cause is shown.

(b) In paragraph (a) –

"good cause" means –

(i) illness or injury certified by a medical practitioner; or

(ii) the failure of the worker to register his complaint was due to the fact that he was outside Mauritius.

(5) Where a worker has made a claim for the payment of the transition unemployment benefit and the supervising officer is satisfied that the claim is bona fide, the supervising officer shall, within 7 days of the date of the claim, notify the Ministry responsible for the subject of social security in the form set out in the Eighth Schedule.

(6) The supervising officer of the Ministry responsible for the subject of social security shall, not later than 10 days after receipt of a claim under subsection (5), pay to the worker, in his individual bank account, the transition unemployment benefit to which he is entitled under subsection (3) or (4).

(7) The transition unemployment benefit shall cease as from the end of the month in which the worker –

(a) becomes gainfully employed on a full-time basis for a period of at least 30 consecutive days;
[Amended 15/21 (cio 5/8/21).]

(b) reaches retirement age; or
[Amended 15/21 (cio 5/8/21).]

(c) declines, for the second time, an offer for a job or training, which is in accordance with his profile and qualifications.
[Added 15/21 (cio 5/8/21); amended 12/2023 (cio 20/7/2023).]

(8) Where a worker becomes gainfully employed, he shall, within 7 days accordingly notify the supervising officer, in writing or electronically or in such other manner as the supervising officer may determine, specifying whether he is gainfully employed on a full-time basis or otherwise.
[Amended 15/21 (cio 5/8/21).]

(8A) (1) The supervising officer shall, in the case of a worker who becomes gainfully employed on a full-time basis, within 7 days of the receipt of the

notification under subsection (8), inform the supervising officer of the Ministry responsible for the subject of social security of that notification.

(2) The supervising officer of the Ministry responsible for the subject of social security shall, on being informed under subsection (1), forthwith take such action as may be necessary to stop payment of the transition unemployment benefit to the worker.

[Inserted 7/2020 (cio 7/8/2020); RR 15/21 (cio 5/8/21).]

(8B) Where a worker who becomes gainfully employed on a full-time basis for a period of at least 30 consecutive days fails to notify the supervising officer under subsection (8), the worker shall commit an offence.

[Inserted 15/21 (cio 5/8/21).]

(8C) (a) Any worker who, after becoming gainfully employed on a full-time basis for a period of at least 30 consecutive days –

(i) fails to notify the supervising officer under subsection (8); and

(ii) continues to benefit from payment of the transition unemployment benefit into a bank account,

the worker shall refund the payment received to the Workfare Programme Fund, or request the bank to make the refund, within one month of the date of payment.

(b) Any worker who fails to refund any payment received or to request the bank to make the refund under paragraph (a) shall commit an offence.

[Inserted 15/21 (cio 5/8/21).]

(9) The transitional unemployment benefit shall be financed in the manner specified in the Seventh Schedule.

(10) In this section –

"basic wage or salary", in relation to a worker –

(a) means –

(i) where the terms and conditions of employment of the worker are prescribed, specified in an arbitral award or an agreement, whether oral or written, express or implied, the basic wage or salary prescribed, award or agreement, or where the employer pays a higher wage or salary, the

higher wage or salary so paid, excluding any allowance by whatever name called, and whether paid in cash or in kind;

(iii) in any other case, all the emoluments received by the worker, excluding any bonus or overtime; but

(b) shall not exceed the maximum basic wage or salary as specified in the First Schedule to the Social Contribution and Social Benefits Act 2021.

[Amended 15/22 (cio 1/7/22).]

"part-time worker" means a worker in employment with a single employer and who does not perform more than 24 hours work in a week;

"worker" does not include –

(a) a public officer;

(b) a person employed by a statutory body falling under the purview of any Ministry or by a local authority, other than a worker who is an insured person under section 4(1) of the Social Contribution and Social Benefits Act 2021;

[Amended 15/22 (cio 1/7/22).]

(c) a part-time worker;

(d) a migrant worker or a non-citizen;

(e) a worker employed in the sugar industry who voluntarily retires –

(i) in the context of a Voluntary Retirement Scheme under section 23 of the Sugar Industry Efficiency Act;

(ii) an Early Retirement Scheme under section 23A of the Sugar Industry Efficiency Act; or

(iii) pursuant to a factory closure under section 30 of the Mauritius Cane Industry Authority Act;

(f) a person reckoning less than 180 days' continuous employment with the same employer as at the date of the termination of his employment, whether on a determinate agreement or not;

(g) a person enlisted in any training scheme set up by the Government or as a joint public-private initiative with a view to facilitating the placement of jobseekers in gainful employment.

[S. 84 amended by s. 57(l) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s.94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

85. Industrial injury benefit

(1) The balance of injury benefit calculated in accordance with section 78(2)(c) shall be transferred to the Ministry to guarantee the worker having suffered industrial injury resulting in temporary total incapacity for work, an industrial injury benefit representing 100 per cent of the basic wage or salary specified in Part II of the First Schedule to the Social Contribution and Social Benefits Act 2021.

(2) In this section –

"Ministry" means the Ministry responsible for the subject of social security.

[S. 85 repealed and replaced by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

86. Recovery of overpayment

(1) Where a transition unemployment benefit under section 84(3) and (4) has been paid into a bank account of a worker and it is subsequently found by the supervising officer that the lump sum or benefit should not have been so paid, the bank shall, on written request to that effect by the supervising officer, refund the amount so paid to the Workfare Programme Fund and shall debit the bank account accordingly.

(2) (a) Where a bank account is closed, the bank shall not be required to refund the amount paid under subsection (1) to the Workfare Programme Fund.

(b) When the amount standing in the bank account is less than the amount paid under subsection (1), the bank shall refund only the amount standing in the bank account.

(3) Notwithstanding any other enactment, where a refund is made under this section, no action shall lie against the bank in respect of the amount refunded.

86A. Refund by employer

(1) (a) The supervising officer shall, in writing, request an employer to refund to the Workfare Programme Fund, within a period of one month from the receipt of the request, the amount of transition unemployment benefit paid to a worker whose employment was terminated by him, where he has reason to believe that –

(i) during any period of at least 24 consecutive months or an aggregate period of at least 24 months within a period of 36 months, the employer has terminated the employment of the worker more than once and has re-employed that worker on a new contract after a break of more than 28 days; and

(ii) the number of days during which the worker was in the employment of the employer during the period of 24 months exceeds the number of days during which the worker was not in employment and was paid the transition unemployment benefit.

(b) In this subsection –

"period of 24 months" means the period starting from the date of the first termination of the employment of the worker by the employer.

(2) An employer who fails to comply with a written request sent to him under subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

(3) In this section and in section 86 –

"supervising officer" means the supervising officer responsible for the subject of social security.

[S. 86A inserted by s. 94 of Act 15 of 2021 w.e.f 1 January 2020.]

86B. Sharing of information

(1) Notwithstanding any other enactment, the supervising officer shall, for the purpose of collection and recovery of contributions by the Director-General under section 17 of the National Savings Fund Act, share with the Director-General

such information as he may require in respect of the worker and the employer, including the information specified in the Eighth Schedule.

(2) The Director-General shall not disclose any information obtained under subsection (1) to a third party.

[S. 86B inserted by s. 94 of Act 15 of 2021 w.e.f. 1 January 2020.]

PART VIII – PORTABLE RETIREMENT GRATUITY FUND

[Part VIII came into operation on 1 January 2020.]

87. Interpretation of Part VIII

In this Part –

"accumulated fund", insofar as it relates to the gratuity payable to a worker under section 99 or 100 –

(a) means the accumulated contributions made by one or more employers, as the case may be, in the individual account of the worker in respect of the period during which the worker was employed by the employer or employers; and

(b) includes investment income net of expenses accruing to the individual account of the worker;

"appropriate retiring age" means any age at which a worker may –

(a) retire on or after the age of 60;
[Amended 15/22 (cio 1/7/22).]

(b) in accordance with any other relevant enactment or any agreement, retire before the age of 60; or
[Amended 15/22 (cio 1/7/22).]

(c) in accordance with section 98(1)(a)(iv), (v) or (vi), retire before attaining the age of 60;
[Added 15/22 (cio 1/7/22).]

"contributions" means contributions payable by an employer under sections 94, 95, 96 and 97;

"employer" includes a self-employed who has in his employment up to 5 workers;

[Inserted 15/22 (cio 1/7/22).]

"final remuneration" means –

(a) the remuneration drawn by a worker for work performed for the last complete month of his employment with an employer; or
[Amended 12/2023 (cio 20/7/2023).]

(b) the average monthly remuneration drawn by a worker, including payment made over a period of 12 months before the worker ceases to be in the employment of an employer in any manner whatsoever as –

(i) commission in return of services up to 1,200,000 rupees;

(ii) end of year bonus;

(iii) any other regular payment,

whichever is higher;

"Financial Services Commission" means the Financial Services Commission established under the Financial Services Act;
[Inserted 15/22 (cio 1/7/22).]

"gratuity" means the gratuity payable under sections 99 and 100;
"monthly remuneration" means the sum total of –

(a) the monthly basic wages paid to a worker; and

(b) any productivity bonus, attendance bonus and payment for extra work performed,

on the basis of which monthly contribution is paid to the Portable Retirement Gratuity Fund in relation to the worker;

"private pension scheme" means a private pension scheme in respect of which a pension scheme licence is issued under the Private Pension Schemes Act;

"resignation" includes cessation of work, abandonment of work or breach of contract;
[Inserted 15/22 (cio 1/7/22).]

"self-employed" –

(a) means a person who works for his own account; and

(b) includes a person who has in his employment up to 5 workers;
[RR 15/22 (cio 1/7/22).]

"worker" –

(a) includes –

(i) a worker referred to in section 17;
[Amended 15/21 (cio 5/8/21).]

(ii) a worker who is more than 50 years of age and is not covered by a private pension scheme; and
[Amended 15/21 (cio 5/8/21).]

(iii) a jockey and track rider engaged in horse racing activity and such other grade or category of workers, as may be prescribed, employed in the horse racing industry; but
[Added 15/21 (cio 5/8/21).]

(b) does not include a worker drawing a monthly basic wage or salary of more than 200,000 rupees.

[S. 87 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

88. Establishment of Portable Retirement Gratuity Fund

There is established for the purposes of this Part a Fund to be known as the Portable Retirement Gratuity Fund.

89. Object of Portable Retirement Gratuity Fund

The object of the Portable Retirement Gratuity Fund shall be to provide for the payment of a gratuity –

(a) to a worker, on his retirement;

(b) to the legal heirs or legal representative of a worker, on the death of the worker;
[Amended 15/22 (cio 1/7/22).]

(c) to a self-employed who has contributed to the Portable Retirement Gratuity Fund, on his retirement; or

(d) to the legal heirs or legal representative of a self-employed who has contributed to the Portable Retirement Gratuity Fund, on the death of the self-employed.

[Amended 15/22 (cio 1/7/22).]

[S. 89 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

90. Eligibility to join Portable Retirement Gratuity Fund

(1) Any worker or self-employed, other than –

(a) a job contractor;

(b) a public officer or a local government officer; or

(c) a worker whose retirement benefits are payable –

(i) under the Statutory Bodies Pension Funds Act or the Sugar Industry Pension Fund Act; or

[RR 15/21 (cio 5/8/21).]

(ii) in accordance with a private pension scheme where the amount of the employer's monthly contribution under the pension scheme is not less than the amount of the employer's monthly contribution which would otherwise be payable under the Workers' Rights (Portable Retirement Gratuity Fund) Regulations 2020, in respect of every period of 12 months starting on 1 July 2023;

[Amended 15/22 (cio 1/7/22); rr 12/2023 (cio 20/7/2023).]

(d) a migrant worker or a non-citizen; and

(e) a worker drawing a monthly basic wage or salary of more than 200,000 rupees,

[Amended 15/21 (cio 5/8/21).]

shall be eligible to join the Portable Retirement Gratuity Fund.

(2) (a) The share of contribution of an employer to the Sugar Industry Pension Fund or any other pension fund set up under the Sugar Industry Pension Fund Act shall be not be less than the rate prescribed in the Workers' Rights

(Portable Retirement Gratuity Fund) Regulations 2020.

(b) The administrator of a private pension scheme referred to in subsection (1)(c) or the governing body of any self-administered pension scheme shall ensure that the monthly contribution of every employer is in accordance with subsection (1)(c)(ii).

[RR 12/2023 (cio 20/7/2023).]

[RR 15/22 (cio 1/7/22).]

(3) Where an employer fails to comply with subsection (1) or (2), he shall commit an offence and shall, on conviction, be liable to a fine of not less than 50,000 rupees and not exceeding 150,000 rupees and to imprisonment for a term not exceeding 12 months.

[Added 15/22 (cio 1/7/22).]

[S. 90 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

90A. Issue of certificate

(1) Subject to subsection (2), the employer of a worker referred to in section 90(1)(c)(ii) shall submit to the Director-General a certificate issued by the Financial Services Commission certifying that he has a private pension scheme satisfying the eligibility criteria required under that subsection.

(2) The Financial Services Commission may withdraw the certificate, subject to such terms and conditions as may be specified in FSC Rules, where, in accordance with the information submitted by the administrator of a private pension scheme, the employer –

[Amended 12/2023 (cio 20/7/2023).]

(a) does not satisfy the eligibility criteria required under section 90(1)(c)(ii); or

(b) has not paid contributions for more than 3 months in accordance with rule 9 of the Private Pension Schemes (Administration) Rules 2014.

(3) The administrator of the private pension scheme or where the scheme is self-administered, its governing body shall, prior to the submission of a certificate under subsection (1), ensure that the monthly contribution made by an employer is in accordance with section 90(1)(c)(ii).

[RR 12/2023 (cio 20/7/2023).]

(4) Where the monthly contribution of an employer who –

(a) sponsors or participates in a private pension scheme or has a self-administered pension scheme; and

(b) has been issued with a certificate by the Financial Services Commission prior to the commencement of section 90A, is not in accordance with section 90(1)(c)(ii),

the administrator or governing body of the pension scheme, as the case may be, shall, by 31 December 2023 at latest, ensure that the monthly contribution made is in accordance with section 90(1)(c)(ii).

[RR 12/2023 (cio 20/7/2023).]

(5) This section shall apply only to –

(a) a defined contribution scheme; or

(b) the defined contribution section of a private pension scheme having both a defined benefit section and a defined contribution section.

(6) For the purpose of this section –

"defined contribution scheme" has the same meaning as in the Private Pension Schemes Act;

"FSC Rules" has the same meaning as in the Financial Services Act.

[S. 90A inserted by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

91. Administration of Portable Retirement Gratuity Fund

(1) The Portable Retirement Gratuity Fund shall be administered in accordance with the Finance and Audit Act by the Minister to whom responsibility for the subject of social security is assigned or by such other body as may be prescribed.

[Amended 12/2023 (cio 20/7/2023).]

(2) The Minister referred to in subsection (1) shall, at intervals of not more than 5 years, or at such shorter interval –

(a) cause an actuarial evaluation of the Portable Retirement Gratuity Fund to be made by such actuary as he may appoint; and

(b) determine, in the light of the evaluation, whether an adjustment is necessary to secure the future evaluation of the Portable Retirement Gratuity Fund.

(3) In this section –

"actuarial evaluation" means a written report prepared and signed by an actuary, including any development affecting the Portable Retirement Gratuity Fund and technical provisions since the last actuarial evaluation was prepared.

[S. 91 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

92. Payment into and out of Portable Retirement Gratuity Fund

(1) There shall be paid into the Portable Retirement Gratuity Fund –

(a) contributions made by an employer or a self-employed under sections 94, 95, 95A, 96 and 97;
[Amended 12/2023 (cio 20/7/2023).]

(b) investment income net of expenses;

(c) such amount as may be prescribed, from the seed capital;

(d) such other money as may accrue to the Portable Retirement Gratuity Fund.

(2) There shall be paid out of the Portable Retirement Gratuity Fund –

(a) any gratuity payable under this Act;

(b) any expenses incurred in the administration of the Portable Retirement Gratuity Fund.

[S. 92 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

93. Individual account in respect of every worker or self-employed

(1) There shall be in the Portable Retirement Gratuity Fund, in respect of every worker or self-employed, an individual non-withdrawal account.

(2) There shall be paid into each individual account –

(a) the contributions payable by an employer under sections 94, 95, 95A, 96 and 97, or the contributions payable by the self-employed under section 94, as the case may be;

(b) any interest earned on the contributions; and

(c) such other payment as may be prescribed.

(3) There shall be paid out of any individual account such amount as may be incurred in the administration of the individual account.

[S. 93 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

94. Contributions to Portable Retirement Gratuity Fund

(1) An employer other than –

(a) an employer who has a private pension scheme;

(b) a statutory body specified in the First Schedule to the Statutory Bodies Pension Funds Act, insofar as it relates to its workers by or on behalf of whom contributions are made,

shall, on such date as may be prescribed, electronically pay to the Director-General, through such computer system as he may approve, the contributions under this Act, in respect of each worker in his employment, at such rate as may be prescribed.
[Amended 1/2020 (cio 23/3/2020); 12/2023 (cio 20/7/2023).]

(2) The payment of the contributions under subsection (1) shall be made to the Director-General not later than on the twentieth of the month following the month in respect of which the contributions are due.

(3) The Director-General shall remit the contributions collected under subsection (2) to the Ministry responsible for the subject of social security and the contributions shall be credited into the individual account of each worker in the Portable Retirement Gratuity Fund.

(4) A self-employed may pay such contributions to the Director-General as may be prescribed and such contributions shall be made and credited in the individual account of the self-employed in the same manner provided for in subsections (2) and (3).

[S. 94 amended by s. 57(m) of Act 1 of 2020 w.e.f. 23 March 2020; s. 91 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

95. Contributions for past services

(1) Subject to subsections (2) and (3), an employer shall, in addition to any contribution paid under section 94, pay the contributions in respect of the past services of a worker who is in his employment on the commencement of this Part.
[Amended 1/2020 (cio 23/3/2020).]

(2) The contributions required to be paid under subsection (1) shall –

(a) (i) in the case of a worker whose employment is terminated, be paid as from the date of employment with the employer;

(ii) in the case of a worker who has resigned, be paid as from 1 January 2020,

to the Director-General, not later than one month after the date of termination of employment or the date of resignation of the worker, as the case may be, and computed at such rate as may be prescribed on the basis of the monthly remuneration of the worker for the last completed month; or
[RR 15/22 (cio 1/7/22); 12/2023 (cio 20/7/2023).]

(b) where the employer opts to pay the contributions to the Director-General, be paid, in the case of the events mentioned in paragraph (a), at any time before the occurrence of these events.

(2A) (a) An employer shall –

(i) where his worker retires in circumstances specified in section 98;

(ii) where his worker dies,

pay to him, or his legal heirs or legal representative, as the case may be, a gratuity

computed in accordance with section 96(4) in lieu of contributions for his past services.

(b) A worker, his legal heirs or legal representative, as the case may be, who is not or are not paid in accordance with paragraph (a), shall register a complaint with the supervising officer.

(c) The employer shall pay the gratuity –

(i) to the worker not later than the last day of his employment; or

(ii) to the legal heirs or legal representative of the deceased worker, on submission of relevant legal documents.

[Inserted 15/22 (cio 1/7/22).]

(d) Where an employer has paid a gratuity to a worker or the legal heirs or legal representative of the worker under paragraph (a) or (b), the employer shall, within 15 days of the date of payment, make a return to the administrator and the Director-General, specifying the name of the worker and amount of gratuity paid.

[Inserted 12/2023 (cio 20/7/2023).]

(3) The contributions under this section shall be computed on the basis of the remuneration, for the last completed month, drawn by the worker –

[Amended 7/2020 (cio 7/8/2020); 12/2023 (cio 20/7/2023).]

(a) at the commencement of this Part; or

[Amended 1/2020 (cio 23/3/2020).]

(b) in the case of contributions made under subsection (2), at the time the employment of the worker is terminated or the worker resigns, as the case may be.

[Amended 15/22 (cio 1/7/22).]

[S. 95 amended by s. 57(n) of Act 1 of 2020 w.e.f. 23 March 2020; s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

95A. Contributions for past length of service in other circumstances

(1) Subject to subsection (3), where an employer insures a worker in a private pension scheme, in the Sugar Industry Pension Fund or in any other pension fund set up under the Sugar Industry Pension Fund Act, the employer shall, not later than one month after the date of termination of employment or resignation of the

worker, pay to the Director-General any contribution computed in accordance with section 96(4) or any other enactment for the period the worker's retirement benefits were not covered by a private pension scheme, the Sugar Industry Pension Fund or any other pension fund set up under the Sugar Industry Pension Fund Act.

[RR 12/2023 (cio 1/7/2023).]

(2) The employer shall –

(a) where the worker retires in circumstances specified in section 98 or 109, as appropriate; or

(b) where the worker dies,

pay to the worker referred to in subsection (1) or the legal heirs or legal representative of the deceased worker, as the case may be, a gratuity in accordance with section 96(4).

[RR 12/2023 (cio 1/7/2023).]

(3) For the purpose of subsection (1), where a worker who was in employment prior to 1 January 2020 resigns from his employment, the contribution for any past length of service shall start as from 1 January 2020.

[S. 95A inserted by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 1 July 2023.]

96. Shortfall or surplus of contributions

(1) (a) Subject to subsection (3) and section 95(2), where –

(i) the employment of a worker is terminated by his employer; and

(ii) the value of the accumulated fund standing in the individual account of the worker in respect of his length of service, including his past service with the employer, is less than the lump sum computed in accordance with subsection (4),

the administrator shall, not later than one month after the date of receipt of the statement specified in section 102(3), notify the employer and the worker, in writing, of the amount representing the difference between the value of the accumulated fund and the lump sum and the computation thereof.

[Amended 15/22 (cio 1/7/22).]

(b) The employer to whom a notification is sent under paragraph (a) shall, not later than one month after the receipt of the notification, pay into the Portable Retirement Gratuity Fund contributions equivalent to the amount representing the difference referred to in paragraph (a).

(2) (a) Subject to subsection (3), where –

(i) a worker resigns or ceases to be in the employment of an employer otherwise than where his employment is terminated; and

[Amended 12/2023 (cio 20/7/2023).]

(ii) the value of the accumulated fund standing in the individual account of the worker in respect of his length of service with that employer is less than the lump sum computed in accordance with subsection (4),

the administrator shall, not later than one month after the date of receipt of the statement specified in section 102(3), notify the employer and the worker, in writing, of the amount representing the difference between the value of the accumulated fund and the lump sum and the computation thereof.

[Amended 15/22 (cio 1/7/22).]

(b) The employer to whom a notification is sent under paragraph (a) shall, not later than one month after the receipt of the notification, pay into the Portable Retirement Gratuity Fund the amount representing the difference referred to in paragraph (a).

(3) Where a worker retires or dies and the value of the accumulated fund standing in the account of the worker in respect of his length of service with the employer, including his past service, is less than the lump sum computed in accordance with subsection (4), the administrator shall notify the employer and the worker, his legal heirs or legal representative, as the case may be, in writing, of the amount representing the difference between the value of the accumulated fund and the lump sum and the computation thereof.

[Amended 15/22 (cio 1/7/22).]

(4) The lump sum referred to in subsections (1), (2) and (3) shall be computed –

(a) in the case of a worker, including a part-time worker, on the basis of –

[Amended 12/2023 (cio 20/7/2023).]

(i) 15 days' final remuneration for every period of 12 months' employment; and

(ii) a sum equal to one twelfth of the sum payable for 12 months' employment multiplied by the number of months during which the worker has remained in the employment of the employer, for every period of less than 12 months;

(aa) in the case of a worker, including a part-time worker, who reckons service with his employer for a period of less than 12 months, a sum equal to the sum referred to in paragraph (a)(ii);
[Inserted 7/2020 (cio 7/8/2020); amended 12/2023 (cio 20/7/2023).]

(b) –
[Repealed 12/23 (cio 20/7/2023.]

(5) Where the value of the accumulated fund standing in the individual account of a worker in respect of his length of service, including his past service, with an employer exceeds the lump sum computed in accordance with subsection (4), the amount representing the difference between the value of the accumulated fund and the lump sum shall –

(a) be used to make up for any unpaid contribution due by the employer; or

(b) be credited in the employer's account in the Portable Retirement Gratuity Fund and used by the employer to pay the contributions for the past services of his other workers, where appropriate.

(6) (a) A worker, legal heirs or legal representative of a worker, as the case may be, who is not or are not paid the amount representing the difference referred to in this section shall register a complaint with the supervising officer.
[Amended 15/22 (cio 1/7/22).]

(b) The supervising officer shall enquire into the complaint in accordance with section 120.

(7) Where an employer fails to pay to the worker, legal heirs or legal representative of a worker any payment due under this section, the employer shall commit an offence and shall, on conviction, be liable to a fine of not less than 50,000 rupees nor more than 150,000 rupees and to imprisonment for a term not exceeding 12 months.
[Amended 15/22 (cio 1/7/22).]

(8) For the purposes of this Act, the formula referred to in subsection (4) provides the method for the computation of the minimum gratuity payable under this Part.

(9) Notwithstanding the amount of gratuity determined by the Board under the Sugar Industry Pension Fund Act, any worker whose pension benefits are covered under the Sugar Industry Pension Fund Act shall be entitled to a gratuity which shall not be less than the lump sum calculated in accordance with subsection (4).

[Added 15/22 (cio 1/7/22).]

[S. 96 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s.81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

97. Joint liability of employer and job contractor to pay contributions

Where an employer has recourse to a job contractor, the employer and the job contractor shall be jointly and severally liable to pay the contributions in respect of every worker employed by the job contractor in the execution of the work or service.

98. Circumstances in which gratuity may be granted

(1) The administrator shall pay a gratuity –

(a) to a worker who –

(i) voluntarily retires on or after attaining the age of 60;

(ii) retires before attaining the age of 60, in accordance with any other relevant enactment or any agreement;

(iii) retires at the request of his employer on or after attaining the retirement age;

[Amended 15/22 9cio 1/7/22).]

(iv) retires before attaining the age of 60, on grounds of permanent incapacity, duly certified by a Government medical practitioner, to perform his work;

[Amended 15/22 (cio 1/7/22).]

(v) retires on grounds of incapacity to perform his normal work arising from injury sustained at work and where such incapacity is duly certified by a Government medical

practitioner;
[Amended 15/22 (cio 1/7/22); amended 12/2023 (cio 20/7/2023).]

(vi) voluntarily retires, before attaining the age of 60, after having completed 436 months with the same employer with whom he was in employment at the commencement of this subparagraph or one or more employers with whom he was in employment thereafter;
[Added 15/22 (cio 1/7/22).]

(vii) at the time he attains the appropriate retiring age, is employed in an enterprise which is considered to be insolvent;
[Added 12/2023 (cio 20/7/2023).]

(b) to a self-employed who has contributed to the Portable Retirement Gratuity Fund, where a request is made by him to the administrator, on or after attaining the age of 60;

(c) to the legal heirs or legal representative of a worker, or legal heirs or legal representative of a self-employed who has contributed to the Portable Retirement Gratuity Fund, at the death of the worker or the self-employed.
[Amended 15/22 (cio 1/7/22).]

(2) (a) An application by a worker, by the legal heirs or by the legal representative of a worker for the payment of a gratuity under this Act shall be made in such manner as may be prescribed.
[Amended 15/22 (cio 1/7/22).]

(b) The administrator shall determine the amount of gratuity payable to a self-employed, his legal heirs or his legal representative and pay such gratuity to the self-employed, his legal heirs or his legal representative.
[Amended 15/22 (cio 1/7/22).]

[S. 98 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

99. Payment of gratuity in case of employment with same employer

(1) Subject to subsection (2), where a worker remains in the employment of one and same employer for the whole duration of his service, a gratuity made up of the accumulated fund standing in his individual account shall be paid to him on his retirement in the circumstances specified in section 98, or to his legal heirs or legal representative, on his death.

[Amended 15/22 (cio 1/7/22).]

(2) Where the value of the accumulated fund in the account of a worker referred to in subsection (1) is less than the lump sum calculated in accordance with section 96(4), or any payment provided in any other relevant enactment or any agreement –

(a) the administrator shall pay to the worker, his legal heirs or legal representative, as the case may be, the gratuity equivalent to the value of the accumulated fund standing in the individual account of the worker; and

[Amended 15/22 (cio 1/7/22).]

(b) the employer shall pay to the worker, his legal heirs or legal representative, as the case may be, not later than one month after a notification is sent to him under section 96(3), the balance of the gratuity equivalent to the amount representing the difference between the value of the accumulated fund and the lump sum or the payment provided for in any other relevant enactment or any agreement, as may be applicable.

[Amended 15/22 (cio 1/7/22).]

(3) (a) The gratuity under subsection (2)(a) shall be paid in 2 instalments as follows –

(i) 90 per cent of the value of the accumulated fund shall be paid on the date of the retirement of the worker, for the period starting from the date of employment, up to 2 months prior to the date of retirement; and

(ii) the balance shall be paid 2 months following the retirement of the worker.

(b) Where the worker opts to retire before the retirement age, he shall notify his employer one month before his retirement date and the employer shall, forthwith, inform the Director-General.

[RR 15/22 (cio 1/7/22).]

(4) Where the terms and conditions of employment of a worker is covered by a collective agreement, the gratuity payable to the worker on his retirement or to his legal representative or legal heirs on his death, under the collective agreement, shall not be less than the lump sum calculated in accordance with section 96(4).

[Added 15/22 (cio 1/7/22).]

[S. 99 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

100. Payment of gratuity in case of employment with one or more employers

(1) Subject to subsection (2), where a worker has been in the employment of more than one employer, a gratuity made up of the accumulated fund standing in the individual account of the worker in respect of his total length of service with each employer shall be paid to him, on his retirement under the circumstances specified in section 98, or to his legal heirs or legal representative, on his death.

[Amended 15/22 (cio 1/7/22).]

(2) Where the value of the accumulated fund in the individual account of the worker insofar as it relates to the contributions, including interests, paid by the last employer in the account of the worker is, at the time of the retirement or death of the worker, less than the lump sum computed in accordance with section 96(4), or any payment provided in any other relevant enactment or any agreement –

(a) the worker, legal heirs or legal representative, as the case may be, shall be paid the gratuity equivalent to the value of the accumulated fund in the individual account of the worker; and

[Amended 15/22 (cio 1/7/22).]

(b) the last employer shall, not later than one month after a notification is sent to him under section 96(3), pay to the worker, legal heirs or legal representative, as the case may be, in respect of the period during which the worker has been in his employment, the balance of the gratuity which is the amount representing the difference between the value of the accumulated fund and the lump sum or any payment as provided in any other relevant enactment or any agreement, whichever is higher.

[Amended 15/22 (cio 1/7/22).]

(3) Where the terms and conditions of employment of a worker are covered by a collective agreement, the gratuity payable to the worker on his retirement or to his legal representative or legal heirs on his death, by the last employer, under the collective agreement, shall not be less than the lump sum calculated in accordance with section 96(4).

[Added 15/22 (cio 1/7/22).]

(4) (a) The gratuity under subsection (2)(a) shall be paid in 2 instalments as follows –

(i) 90 per cent of the value of the accumulated fund shall be paid on the date of the retirement of the worker, for the period starting from the date of employment, up to 2 months prior to the date of retirement; and

(ii) the balance shall be paid 2 months following the retirement of the worker.

(b) Where the worker opts to retire before the retirement age, he shall notify his employer one month before his retirement date and the employer shall, forthwith, inform the Director-General.

[Added 15/22 (cio 1/7/22).]

[S. 100 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

100A. Computation of gratuity or lump sum

For the purpose of computation of gratuity or lump sum under sections 95, 95A, 96, 99 and 100, the notional calculation of daily rate of pay for a full-time worker and part-time worker shall be on the basis of 26 days in a month.

[S. 100A. inserted by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; repealed and replaced by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

101. Recovery of contribution by Director-General

(1) Subject to subsection (2), Part IVC of the Mauritius Revenue Authority Act and section 148 of the Income Tax Act shall apply to the collection of contributions and recovery of unpaid contributions under this Act, with such modifications, adaptations and exceptions as may be necessary to enable the Director-General to comply with this Act.

(2) Where an enterprise is insolvent, any unpaid contribution due by the enterprise shall be recovered in such manner as may be prescribed.

102. Information to be furnished to Director-General and administrator

(1) An employer who is required to contribute to the Portable Retirement Gratuity Fund under section 94 or 95 shall submit to the Director-General, every month not later than on the twentieth of the month, a return in respect of every worker setting out the remuneration paid to the worker and the amount of contribution made on behalf of the worker.

(2) –

[R 12/2023 (cio 20/7/2023).]

(3) Where a worker's employment is terminated or where a worker resigns, retires or dies before the retirement age, the employer shall, not later than one month after the termination of the employment or resignation, retirement or death of the worker, as the case may be, submit to the administrator a return in the form of a statement setting out in respect of the worker –

[Amended 12/2023 (cio 20/7/2023).]

(a) his date of entry;

(b) his remuneration for the last month;

(c) the details of the remuneration paid for the last 12 months of employment; and

(d) such other information as may be prescribed.

(4) The employer shall provide to the worker, his legal heirs or legal representative, as the case may be, a copy of the return specified in subsection (3).

[Amended 15/22 (cio 1/7/22).]

(5) An employer shall, not later than one month after the cessation or termination of employment, change of employment, retirement or death, of a worker, give written notice of the occurrence to the Director-General.

(6) Any employer who fails to comply with subsection (5) shall commit an offence and shall, on conviction, be liable to a fine of not less than 50,000 rupees and not exceeding 150,000 rupees and to imprisonment for a term not exceeding 12 months.

[Added 15/22 (cio 1/7/22).]

(7) The administrator shall, on a quarterly basis, publish the return on investment on contributions made to the Fund.

[Added 15/22 (cio 1/7/22).]

[S. 102 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

103. Remittance of contributions by Director-General

(1) The Director-General shall remit all contributions and surcharges collected under this Part to the Ministry responsible for the subject of social security not later than at the end of the month in which the payment is made.

(2) The Director-General shall, for the purpose of subsection (1), keep records, in respect of every financial year, of –

(a) the amount of contribution, including surcharge, collected from every employer in respect of every worker;

(b) any administration fee paid; and

(c) the amount of unpaid contribution, or surcharge, due by every employer at the end of the financial year.

(3) The Director-General shall issue in such form and manner as may be prescribed –

(a) a quarterly return to –

(i) the administrator, specifying the amount collected as contributions and surcharges from each employer; and

(ii) an employer in respect of such amount collected as contributions and surcharge from the employer; and

(b) a statement to the worker at the end of each financial year, specifying the contributions made on his behalf by his employer for that financial year.

104. Establishment of Portable Retirement Gratuity Fund Advisory Committee

(1) There is set up for the purpose of the Portable Retirement Gratuity Fund the Portable Retirement Gratuity Fund Advisory Committee.

(2) The Portable Retirement Gratuity Fund Advisory Committee shall –

(a) advise the Minister on the operation of the Portable Retirement Gratuity Fund;

(b) make recommendations to the Minister for the viability of the Portable Retirement Gratuity Fund, based on an actuarial evaluation;

(c) make recommendations to the Minister in relation to matters pertaining to the grant of benefits to the workers or self-employed under the Portable Retirement Gratuity Fund;

(d) make recommendations to the Minister on changes required to the legal and policy decisions with a view to enhancing the Portable Retirement Gratuity Fund and maintaining its viability; and

(e) perform any other function in relation to the operation of the Portable Retirement Gratuity Fund.

(3) The Portable Retirement Gratuity Fund Advisory Committee shall consist of –

(a) the supervising officer, who shall be the chairperson;

(b) a representative of the Ministry responsible for the subject of finance;

(c) a representative of the Ministry responsible for the subject of social security;

(d) 3 representatives of the workers' organisation, to be appointed by the Minister after consultation with the most representative worker's organisations; and

(e) 3 representatives of the employers' organisation, to be appointed by the Minister after consultation with the most representative employer's organisations.

(4) The Portable Retirement Gratuity Fund Advisory Committee shall meet as often as is necessary but at least once every 6 months and at such time and place as the chairperson thinks fit.

(5) At any meeting of the Portable Retirement Gratuity Fund Advisory Committee, 5 members shall constitute a quorum.

(6) Subject to this section, the Portable Retirement Gratuity Fund Advisory Committee shall regulate its meetings and proceedings in such manner as it may determine.

(7) The Portable Retirement Gratuity Fund Advisory Committee may set up any such subcommittees as may be necessary for the administration of the Portable Retirement Gratuity Fund.

105. Investment Committee

(1) The Investment Committee set up under section 38 of the National Pensions Act shall act as the Investment Committee of the Portable Retirement Gratuity Fund.

(2) Any surplus remaining in the Portable Retirement Gratuity Fund may be held on deposit with the Government or invested in such manner as the Investment Committee may determine, having regard to –

(a) the need for an appropriate level of liquidity in the Portable Retirement Gratuity Fund; and

(b) the need to secure the future value of the Portable Retirement Gratuity Fund.

106. Audited accounts of Portable Retirement Gratuity Fund

(1) The Portable Retirement Gratuity Fund Advisory Committee shall cause to be published in the Gazette the audited annual accounts of the Fund, setting
out –

(a) the payments made into and out of the Portable Retirement Gratuity Fund;

(b) the assets and liabilities of the Portable Retirement Gratuity Fund with particular reference to any investment held by the Portable Retirement Gratuity Fund.

(2) The Minister responsible for the subject of social security shall, at the earliest available opportunity, lay a copy of the audited annual accounts of the Portable Retirement Gratuity Fund before the National Assembly.

107. Statement of account

The administrator shall issue, in such manner as the Portable Retirement Gratuity Fund Advisory Committee may determine, an annual statement of account to each worker after the end of every financial year.

108. Surcharge and interests on late contributions

(1) Without prejudice to any legal proceedings which may be instituted under this Part, where an employer fails, within the prescribed time, to pay into the Portable Retirement Gratuity Fund the whole or part of any contributions payable under section 94, 95, 95A, 96 or 97, he shall, in addition to the contributions payable, pay –

(a) a surcharge of 10 per cent of any contribution remaining unpaid; and

(b) interest at the rate of one per cent for each month or part of the month during which any contributions remain unpaid.

(2) The employer shall not recover from a worker any surcharge or interests payable under subsection (1).

(3) For the purpose of determining whether a surcharge is leviable under this section, the contributions shall be deemed to have been made on the date payment is received by the Director-General.

[S. 108 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; repealed and replaced by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

PART IX – GRATUITY ON RETIREMENT AND AT DEATH

Sub-Part I – Gratuity on Retirement

109. Gratuity on retirement

(1) An employer shall pay a gratuity to a worker who has been in continuous employment with him for a period of 12 months or more where the worker –

(a) voluntarily retires on or after attaining the age of 60;

(b) retires before attaining the age of 60, in accordance with any other relevant enactment or any agreement;

(c) retires at the request of the employer on or after attaining the retirement age; or

(d) retires before attaining the age of 60, on grounds of permanent incapacity, duly certified by a Government medical practitioner, to perform his work; or

(e) retires on grounds of incapacity to perform his normal work arising from injury sustained at work and where such incapacity is duly certified by a Government medical practitioner.

(1A) Notwithstanding any agreement or any provision to the contrary in any other enactment, an employer shall not require a worker to retire before the retirement age.

[Inserted 15/21 (cio 5/8/21).]

(2) (a) Where a worker who has attained the age of 60 remains in continuous employment with the same employer up to the retirement age, the worker and the employer may agree on an advance payment of the total gratuity payable at the retirement age, amounting to the gratuity payable at the age of 60 calculated in accordance with subsection (3).

(b) Advance payment of the gratuity, where agreed upon under paragraph (a), shall be effected upon the worker attaining the age of 60.

(3) The gratuity referred to in subsection (1) shall be paid in a lump sum and shall be calculated –

(a) in the case of a worker, including a part-time worker, on the basis of –

[Amended 12/2023 (cio 207/2023).]

(i) 15 days' remuneration for every period of 12 months' continuous employment; and

(ii) a sum equal to one twelfth of the sum referred to in subparagraph (i) multiplied by the number of months during which the worker has remained in the continuous employment of the employer, for every period less than 12 months;

(b) –

[R 12/2023 (cio 20/7/2023).]

(4) An employer may deduct from any gratuity payable under subsection (3) and section 110 –

(a) half the amount of any gratuity due at the retirement age or the age of 60 or at death from any fund or scheme, computed by reference only to the employer's share of contributions;

(b) 5 times the amount of any annual pension granted at the retirement age or the age of 60 or at death from any fund or scheme, computed by reference only to the employer's share of contributions;

(c) any other gratuity granted at the retirement age or the age of 60 or at death by the employer;

(d) 10 times the amount of any other annual pension granted at the retirement age or the age of 60 or at death by the employer.

(4A) Where a worker has not been paid a retirement benefit under a private pension scheme sponsored by an employer, the employer shall pay the worker a lump sum equivalent to 15 days remuneration per year of service.

[Inserted 12/2023 (cio 20/7/2023).]

(5) In this section –

"fund or scheme" means any pension or provident fund or scheme set up by the employer for the benefit of the worker;

"remuneration" means –

(a) the remuneration drawn by a worker for the last complete month of his employment with an employer; or

(b) the average monthly remuneration drawn by a worker, including payment made over a period of 12 months before the worker ceases to be in the employment of an employer in any manner whatsoever as –

(i) commission in return of services up to 1,200,000 rupees;

(ii) end of year bonus;

(iii) any other regular payment,

whichever is higher;

"worker" means –

(a) a worker whose retirement benefits are payable in accordance with a private pension scheme or the Sugar Industry Pension Fund Act;

[Amended 15/21 (cio 5/8/21).]

(aa) for the purpose of subsection (1A), any worker, irrespective of his rate of basic wage or salary;

[Inserted 15/21 (cio 5/8/21).]

(b) a worker drawing a monthly basic wage or salary of more than 200,000 rupees and whose retirement benefits are not payable under any private pension scheme;

(c) a migrant worker or a non-citizen

(6) For the purposes of this section –

(a) a day's remuneration shall be –

(i) the remuneration drawn by the worker in respect of his last normal working day other than a public holiday; or

(ii) an amount computed in the manner as is best calculated to give the daily rate at which the worker was remunerated over a period of 12 months prior to the termination of his agreement, inclusive of payment for extra work, productivity bonus, attendance bonus, commission in return for services and any other regular payment,

whichever is higher; and

(b) the notional calculation for both a full-time and a part-time worker shall be on the basis of 26 days in a month.

[RR 12/2023 (cio 20/7/2023).]

[RR 15/22 (cio 1/7/22)]

(7) Where a matter relating to the payment of gratuity on retirement or at death is brought before the Court, the Court may, where it thinks fit and whether or not a claim to that effect has been made, order an employer to pay interest at a rate not exceeding 12 per cent per annum on the amount of gratuity payable from the date of retirement or death to the date of payment.

[S. 109 amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

Sub-Part II – Gratuity at Death

110. Gratuity at death

(1) Where a worker who has been in continuous employment with the same employer for a period of not less than 12 months dies, that employer shall pay a gratuity to the legal heirs or legal representative of the worker irrespective of any benefits the legal heirs or legal representative may be entitled to under the National Pension Act or any other enactment.

[Amended 15/22 (cio 1/7/22).]

(2) Subject to section 109(4), (5) and (6) the gratuity referred in subsection (1) shall be calculated in accordance with section 109(3).

[S. 110 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

PART X – ENTITLEMENT OF WORKERS IN SUGAR INDUSTRY

111. Interpretation of Part X

In this Part –

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

"Sugar Industry Remuneration Regulations" means –

(a) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983; or

(b) the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985,

as the case may be;

"worker" –

(a) has the same meaning as in regulation 2(1) of the Sugar Industry Remuneration Regulations; and

(b) includes a person specified in regulation 2(2) of the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985.

112. Continuous employment of existing workers in sugar industry

Subject to –

(a) this Act;

(b) sections 23 and 23A of the Sugar Industry Efficiency Act; and

(c) section 30 of the Mauritius Cane Industry Authority Act,

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

113. Workers employed by job contractor

(1) Where a worker is employed by a job contractor for the purpose of –

(a) land preparation, growing, harvesting or processing of sugar cane and the construction, repair or maintenance of roads, bridges or water works, structures or buildings, wholly or substantially required for the purposes of the sugar industry and any other work incidental to the exploitation of land; or

(b) the transportation of canes, sugar, materials or supplies used in connection with any work specified in paragraph (a),

this Act and the Sugar Industry Remuneration Regulations shall apply to the job contractor in the same manner as they apply to an employer in those enactments.

(2) (a) Subject to paragraph (b), where an employer has recourse to one or more job contractors, the total number of man-days performed in any crop year by –

(i) workers employed by the job contractor; and

(ii) seasonal workers employed by the employer,

shall be determined by the Mauritius Cane Industry Authority, in consultation with the Ministry responsible for the subject of labour, recognised trade unions and the employers, on or before 30 April of each year for the following crop year.

(b) Where an employer has recourse to one or more job contractors, or intends to employ seasonal workers, he shall, on or before 31 March of each year inform the Mauritius Cane Industry Authority of the number of seasonal workers he will require for the following crop year.

(c) The number of seasonal workers to be required under paragraph (b) shall be determined by the Mauritius Cane Industry Authority in consultation with the recognised trade unions and the employers.

(3) The amount referred to in subsection (2) shall be arrived at after taking into consideration the award of the Arbitration Panel dated 31 July 2015.

(4) Every employer shall, on or before 31 January of every year, submit to the supervising officer, separate returns on agricultural workers and non-agricultural workers, showing in respect of the preceding year –

(a) the number of workers employed by job contractors under subsection (2)(a)(i);

(b) the number of seasonal workers employed by him under subsection (2)(a)(ii);

(c) the number of workers employed by him under section 112; and

(d) the number of man-days performed by the workers referred to in paragraphs (a), (b) and (c).

(5) In this section –

"Arbitration Panel" means the Panel set up to look into unresolved issues relating to a labour dispute between the recognised Joint Negotiating Panel representing the recognised trade unions of the sugar industry and the then Mauritius Sugar Producers Association.

PART XI – VIOLENCE AT WORK

114. Violence at work

(1) No person shall –

(a) harass, sexually or otherwise;

(b) assault;

(c) verbally abuse, swear at or insult or humiliate in any manner whatsoever;

(d) express the intention to cause harm to;

(e) bully or use threatening behaviour towards;

(f) use aggressive gesture indicating intimidation, contempt or disdain towards; or

(h) by words or act, hinder,

a worker, including any person undergoing training under any training scheme, in the course of or as a result of his work or training.

[Amended 7/2020 (cio 7/8/2020).]

(2) An employer or his agent shall not carry out a search on a worker.

(3) An employer shall be vicariously liable for violence at work, including sexual harassment, committed by a worker and any third party where the employer knew or should have known of the violence at work and failed to take any action to prevent or stop the violence.

(4) An employer shall enquire into any case of alleged violence at work and take appropriate action to protect the rights of the worker not later than 15 days after the case is reported to him or he becomes aware of the case.

[Amended 7/2020 (cio 7/8/2020).]

(5) Any person who contravenes subsection (1), (2) or (4) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 5 years.

[Amended 7/2020 (cio 7/8/2020).]

(6) The Minister may for the purpose of this section make such regulations as he thinks fit.

(7) In this section –

"bullying" includes a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour or an abuse or misuse of power or authority which attempts to undermine an individual or group of individuals, gradually eroding their confidence and capacity which may cause them to suffer stress;

"harassment", in relation to a worker, includes any unwanted conduct towards the worker, whether verbal, non-verbal, visual, psychological or physical, based on age, impairment, HIV status, domestic circumstances, sex, sexual orientation, gender, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, birth or other status, which occurs in circumstances where a reasonable person would consider the conduct as harassment of the worker;
[Amended 7/2020 (cio 7/8/2020).]

"sexual harassment" has the same meaning as in the Equal Opportunities Act;
[Inserted 15/22 (cio 1/7/22).]

"verbal abuse" includes screaming, yelling, name calling and making mean and disrespectful remarks with a view to humiliating a person.

[S. 114 amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

PART XII – ADMINISTRATION

115. Register of employers

(1) Every employer who employs at least 10 workers shall apply to the supervising officer for registration under this Act.

(2) Every application made under subsection (1) shall be made in such form as may be prescribed.

(3) The supervising officer shall maintain a register of employers.

116. Keeping of records

(1) Every employer shall keep a register of workers, a record of remuneration paid, an inspection report book, and such other records as may be prescribed, and shall keep these records for a period of at least 3 years.

(2) An employer may keep the records specified in subsection (1) in an electronic form.

(3) Every employer shall enter –

(a) in the register of workers, the name, date of birth and date of employment of every worker and the nature and conditions of the work he performs;

(b) in the record of remuneration paid, the days or periods during which a worker has worked and the remuneration and other benefits paid to the worker.

(4) Every employer shall, on request –

(a) produce to an officer any record kept in a register under subsections (1) and (3);

(b) sign any entry made in the inspection report book by an officer; and

(c) submit to the supervising officer such particulars as he may require.

117. Labour inspection

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

(a) administer and ensure the enforcement of this Act and any other relevant enactment relating to labour or employment;

(b) bring to the notice of the Minister defects or abuses not specifically covered by this Act or any other relevant enactment relating to labour or employment.

118. Power to make enquiries

(1) The supervising officer may –

(a) enter without previous notice any place of work or any premises which he has reason to believe is a place of work other than premises used solely for residential purposes, except with the

permission of the occupier;

(b) carry out any examination or enquiry to ascertain that the provisions of this Act are complied with;

(c) interview an employer or his representative and any person employed in the enterprise, regarding the application of this Act or any other relevant enactment relating to labour or employment, and any such person shall answer such questions;

(d) require the employer to produce any book, record or other document relating to terms and conditions of employment, in order to ascertain whether the provisions of this Act or any other relevant enactment are complied with;

(e) enforce the posting of such notices as may be required under this Act or any other relevant enactment;

(f) require an employer to submit in writing any information relating to remuneration, the terms and conditions of employment of a worker, the worker's name, address, date of birth, date of commencing employment and category; and

(g) require an employer or his representative to furnish the facilities and assistance required for entry, inspection, examination or enquiry in the exercise of any of the powers conferred under this Act or any other relevant enactment.

(2) The supervising officer shall, while conducting an inspection visit, notify the employer or the employer's representative of his presence, unless –

(a) neither of them is present or easily accessible at that time; or

(b) he considers that such notification may be prejudicial to the performance of his duties.

(3) The supervising officer may request the assistance of a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duties.

(4) No person shall –

(a) impede or delay the supervising officer in the exercise of any

power under this Act or any other enactment relating to labour or employment;

(b) fail to comply with a request or to answer a question of the supervising officer under subsection (1); or

(c) conceal or prevent any person from appearing before or being examined by the supervising officer or any officer delegated by him, or attempt to do so.

119. Power to summon

(1) Where the supervising officer –

(a) has reason to believe that –

(i) an offence under this Act or any other enactment relating to labour or employment has been committed by an employer or any other person; or

(ii) an employer has failed to comply with an order of the Court; or

[RR 12/2023 (cio 20/7/2023).]

(b) wishes to enquire into a labour matter between an employer and his workers or their representatives,

he may, by written notice, summon any person whom he believes can provide information relating to the offence or the enquiry, to attend and produce any document which he may require.

(2) Any person summoned under subsection (1) who –

(a) having been served with the written notice, fails to comply with its requirements;

(b) refuses to answer faithfully any question put to him by the supervising officer;

(c) gives any false or misleading information;

(d) refuses to produce a document required by the supervising officer,

shall commit an offence.

(3) (a) The written notice specified in subsection (1) shall be issued to the person concerned by causing it to be –

(i) handed over to him in person; or

(ii) left at, or sent by registered post to his registered office or, his usual or last known place of business or residence.

(b) Any person to whom a written notice is issued under paragraph (a) who –

(i) refuses to accept delivery of the written notice; or

(ii) fails to take delivery of the written notice after being informed that it awaits him at a post office,

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

(4) (a) Any person who commits an offence under subsection (2) shall, on a first or second conviction, be liable to a fine of 5,000 rupees or in the case of a third or subsequent conviction, to a fine of 10,000 rupees and to imprisonment for a term not exceeding 10 days.

(b) The Court may, on the conviction of any person under this Act, where it thinks appropriate, make an order directing that person to comply with this Act or any order made by the Court within such time as may be fixed in the order.

(c) A person who fails to comply with an order made under paragraph (b) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

[Added 12/2023 (cio 20/7/2023).]

[S. 109 amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

120. Complaint procedure

(1) Any worker may make a complaint to the supervising officer against his employer or any agent of the employer, in respect of any matter arising out of

his employment.

(2) The supervising officer shall enquire into the complaint made under subsection (1) in the manner specified in section 118.

(3) No employer or any agent of an employer shall prevent a worker from making a complaint to the supervising officer under subsection (1).

(4) An employer or any agent of an employer who prevents a worker from making a complaint to the supervising officer under subsection (1) shall commit an offence.

(5) The supervising officer may refer a complaint reported by a worker under subsection (1), to the Commission for conciliation or mediation.
[Added 15/22 (cio 1/7/22).]

(6) Where the supervising officer is informed by the Commission that the complaint referred to it under subsection (5) –

(a) has been resolved by way of an agreement, no further action shall be taken on the complaint;

(b) has not been resolved, the supervising officer may proceed with any action as he is empowered to take in accordance with any provision of the Act.
[Added 15/22 (cio 1/7/22).]

(7) In this section –

"Commission" means the Commission for Conciliation and Mediation established under section 87 of the Employment Relations Act.
[Added 15/22 (cio 1/7/22).]

[S. 120 amended by s. 81 of Act 15 of 2022 w.e.f. 1 July 2022.]

121. Notice of compliance

(1) (a) Where following an enquiry made under section 120(2), the supervising officer has reasonable grounds to believe that the employer has not complied with this Act or any other enactment relating to the employment of a worker, he may serve a notice to the employer requesting him to comply with the Act or other enactment.

(b) A notice under paragraph (a) shall specify, inter alia –

(i) the name of the employer;

(ii) the provision of this Act or the other enactment, which has not been complied with; and

(iii) the penalty provided for non-compliance, referred to in subparagraph (ii).

(2) An employer to whom a notice under subsection (1) is issued may, within 7 days of the receipt of the notice, appeal against such notice before the Court, which may, after hearing the parties, revoke or affirm the notice.

(3) Where the Court affirms the notice, it shall order the employer to comply with the notice.

(4) The supervising officer may apply to the Court for a compliance order if an employer has not complied with a notice of compliance issued under this section or has not challenged the notice of compliance.

(5) Where an employer does not challenge a notice, or where he challenges the notice and the Court affirms the notice, the employer shall comply with the requirements thereof within 14 days of the date of receipt of the notice or the date of the decision of the Court.

(6) Subject to subsection (3), an employer who fails to comply with a compliance notice by the specified date shall commit an offence.

PART XIII – MISCELLANEOUS

122. Protection from liability

No liability, civil or criminal, shall lie against an officer in respect of any act done or omitted to be done in good faith in the discharge of his functions under this Act.

123. Offences

(1) Any person who –

(a) fails to credit a worker with the full amount of remuneration for work done;

(b) makes, or knowingly allows to be made, any entry in a record required to be kept by an employer which he knows to be false or misleading in a material particular;

(c) for the purposes of this Act, produces, furnishes or knowingly allows to be produced or furnished any register, report, book, remuneration sheet, record, list, documents or information which he knows to be false or misleading in a material particular;

(d) prevents a worker from appearing before the supervising officer;

(e) knowingly makes a false statement or false representation for the purpose of, or in connection with –

(i) the payment of contributions; or

(ii) any claim for benefit or any other payment,

under this Act;

(f) contravenes –

(i) a condition of any authority issued, or approval given, under this Act;

(ii) any order or direction given under this Act; or

(iii) an order made by the Court or the Board;

[Amended 1/2020 (cio 23/3/2020).]

(g) contravenes sections 5, 8, 16, 24, 26, 27, 33, 52A, 54, 57(2), 63(7), 64(10) and 118(4),

[Added 1/2020 (cio 23/3/2020); amended 15/21 (cio 5/8/21); 12/2023 (cio 20/7/2023); 11/24 (cio 27/7/24).]

shall commit an offence.

(2) Any person who commits an offence for which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 2 years.

(3) The Court may, on the conviction of any person under this Act, where

it thinks appropriate, make an order directing that person to comply with this Act or any order made by the Court within such time as may be fixed in the order.

(4) A person who fails to comply with an order made under subsection (3) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

[S. 123 amended by s. 57(0) of Act 1 of 2020 w.e.f. 16 May 2020; s. 94 of Act 15 of 2021 w.e.f 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023; s. 95 of Act 11 of 2024 w.e.f. 27 July 2024.]

124. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide for –

(a) the levying of fees and charges; and

(b) the amendment of the Schedules.

125. Repeal

The Employment Rights Act is repealed.

126. Consequential amendments

(1) The Human Resource Development Act is amended –

(a) in section 18, in subsection (3)(f), by deleting the words "section 45 of the Employment Rights Act" and replacing them by the words "section 76 of the Workers' Rights Act 2019.";

(b) in section 18A, in subsection (2), by deleting the words "section 33 of the Employment Rights Act" and replacing them by the words "section 111 of the Workers' Rights Act 2019";

(2) The Income Tax Act is amended, in section 144A(2), by repealing paragraph (d) and replacing it by the following paragraph –

(d) a contribution, including surcharge in respect of the Portable Retirement Gratuity Fund under the Workers' Rights Act 2019.

(3) The Industrial Court Act is amended, in the First Schedule –

(a) by deleting the following words –

Employment Rights Act

(b) by inserting, in the appropriate alphabetical order, the following new words –

Workers' Rights Act 2019

(4) The National Pensions Act is amended –

(a) in section 17A(2), in the definition of "employer", by deleting the words "section 33 of the Employment Rights Act 2008" and replacing them by the words "section 111 of the Workers' Rights Act 2019";

(b) in section 17B, in subsection (2), by deleting the words "section 45 of the Employment Rights Act" and replacing them by the words "section 76 of the Workers' Rights Act 2019".

(5) The National Savings Fund Act is amended –

(a) in section 2, in the definition of "retirement", in paragraph (b)(i), by deleting the words "Employment Rights Act" and replacing them by the words "Workers' Rights Act 2019";

(b) in section 5A, in subsection (2), in the definition of "employer", by deleting the words "section 33 of the Employment Rights Act" and replacing them by the words "section 111 of the Workers' Rights Act 2019";

(c) in section 5C –

(i) in subsection (1), by deleting the words "section 41 of the Employment Rights Act" and replacing them by the words "section 76 of the Workers' Rights Act 2019";

(ii) by repealing subsection (2);

(iii) in subsection (3), in paragraph (b), by deleting the words "section 44(1) of the Employment Rights Act" and

replacing them by the words "section 84 of the Workers' Rights Act 2019";

(iv) by repealing subsection (4);

(d) in section 5D, in subsection (1), by deleting the words "section 45 of the Employment Rights Act" and replacing them by the words "section 76 of the Workers' Rights Act".

(6) The Notaries Act is amended by inserting, after section 38, the following new section –

38A. Register of protective order

(1) Where the Judge in Chambers makes an order for a protective order under the Workers' Rights Act 2019, the supervising officer of the Ministry responsible for the subject of labour and employment who made the application for such order shall forthwith forward to the Registrar-General the particulars of the order.

(2) The Registrar-General shall, from the information made available to him under subsection (1), make up and keep, in such form and manner as he may determine, a Register of protective order which may be consulted by a notary, an attorney or such other person who has a legitimate interest to do so.

(7) The Private Pension Schemes (Licensing and Authorisation) Rules 2012 is amended, in regulation 5 –

(a) in paragraph (3) –

(i) by revoking subparagraph (a);

(ii) in subparagraph (b), by deleting the words "before 2 years of service";

(iii) in subparagraph (c), by deleting the words "after 2 years of service";

(b) by adding the following new paragraph –

(7) Where the rate of contribution paid by an employer in a private pension scheme is less than the prescribed rate, the

employer shall be required to adjust the rate of contribution to that of the prescribed rate.

[S. 126(7)(b) not in operation]

127. Savings and transitional provisions

(1) (a) Where, before the commencement of this Act, a worker and an employer have entered into one or more determinate agreements for a total period of more than 12 months and where the worker was employed in a position of a permanent nature, the agreement shall, on the commencement of this Act, be deemed to be an indeterminate agreement with effect from the month immediately following the twelfth month of employment under the agreement.

[Amended 15/21 (cio 5/8/21).]

(b) For avoidance of doubt, in paragraph (a) –

"worker" means a worker referred to in section 5(3) of the repealed Employment Rights Act.

[Added 15/21 (cio 5/8/21).]

(2) (a) Any disciplinary proceedings which has started under section 38(2) and (3) of the repealed Act and is pending at the commencement of this Act, shall be dealt with in accordance of the repealed Act as if this Act has not come into operation.

(b) Any disciplinary proceedings which has not started at the commencement of this Act shall be dealt with in accordance with this Act.

(3) The duration of suspension with pay specified in section 38(7) of the repealed Act shall, where the worker is still suspended from work on the commencement of this Act, be the duration of suspension with pay specified in the repealed Act.

(4) The Employment Promotion and Protection Division set up within the Tribunal under section 39A of the repealed Act shall continue to operate for such period as may be necessary to determine all matters referred to it by the Permanent Secretary under section 39B of the repealed Act.

(5) The ex gratia payment made to the former workers of Palmar Limitée (in receivership) and Future Textiles Limited (in receivership) before the commencement of section 78(2)(d) of this Act shall be deemed to have been made pursuant to that section.

(6) A reference in any enactment to the repealed Employment Rights Act shall be construed as a reference to the Workers' Rights Act 2019 or the corresponding section thereof.

(6A) (a) Where a worker retires or dies on or after 1 January 2020 and where no contribution is made in respect of the worker by his employer under section 94, 95, 96 or 97, as applicable, any gratuity to the worker, his legal heirs or his legal representative shall, notwithstanding any provision to the contrary, be paid by his employer and the amount of such gratuity shall be calculated in such manner as may be prescribed.

[Amended 15/22 (cio 1/7/22).]

(b) Where a worker resigns, or the employment of a worker is terminated, on or after 1 January 2020, and where no contribution is made in respect of the worker by his employer under section 94, 95, 96 or 97, as applicable, any contribution to be made by his employer to the Portable Retirement Gratuity Fund shall be calculated at such rate as may be prescribed.

[Inserted 1/2020 (cio 23/3/2020).]

(6B) Any complaint registered under section 69A which is pending before the Ministry prior to the commencement of this section, shall be referred to the Tribunal within 30 days of the commencement of this section.

[Inserted 12/2023 (cio 207/2023).]

(7) Where this Act does not make provisions for the necessary transition from the repealed Act to this Act, the Minister may make such regulations as may be necessary for such transition.

(8) In this section –

"repealed Act" means the Employment Rights Act repealed under section 125.

[S. 127 amended by s. 57(oa) of Act 1 of 2020 w.e.f. 1 January 2020; s. 81 of Act 15 of 2022 w.e.f. 1 July 2022; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

128. Commencement

(1) Subject to subsections (2) and (3), this Act shall come into operation on a date to be fixed by proclamation.

(2) Section 78(2)(d) shall be deemed to have come into operation on 30 April 2019.

(3) Different dates may be fixed for the coming into operation of different sections of the Act.

FIRST SCHEDULE
[Section 11]

PARTICULARS OF WORK AGREEMENT*/CONTRAT DU TRAVAIL/ KONTRA TRAVAY*

1. Name of employer/*nom de l'employeur/nom lanplwayer*
.....
.....

2. National pensions registration number/*numéro d'enregistrement de la pension nationale/nimero anrezistreman pansion nasional*
.....
.....

3. Business Registration Number/National Identity Card no. of employer/*numéro d'enregistrement de l'entreprise/numéro de Carte d'Identité Nationale de l'employeur/nimero anrezistreman lantrepriz/nimero kart idantite nasional lanplwayer*
.....
.....

4. Address of employer/*adresse de l'employeur/ladres lanplwayer*
.....
.....

5. Nature of activity /*nature de l'activité/natir laktivite*
.....
.....

6. Name of worker/*nom du travailleur/nom travayer*
.....
.....

7. Gender/*genre/genre*
.....

8. National Identity Card no./passport no. (non-citizens)*/numéro de la carte d'identité nationale/numéro du passeport (étrangers)/nimero kart idantite nasional/nimero paspor (etranzer)*
.....

9. Date of birth of worker/*date de naissance du travailleur/dat nesans travayer*

.....

10. Address of worker (specify district)/adresse du travailleur (*specifiez le district/ladres travayer (presiz ki distrik*)

.....

.....

11. Date of commencement of agreement/*date du début du contrat/dat komansman kontra* .....

12. Place of work/*lieu du travail/plas travay*

.....

.....

13. Grade, class or category of employment/*qualité, classe ou catégorie d'emploi /kalite, klas ou kategori travay*

.....

.....

14. Rate and particulars of remuneration/*taux et détails de rémunération/tarif ek detay saler*

.....

.....

15. Interval at which remuneration is to be paid/*intervalle auquel rémunération doit être versée/period pou lapey*

.....

.....

16. Normal hours of work/*heures normales de travail/ler travay*

.....

.....

....

Date/*date/dat* *Signature of employer/signature de l'employeur/signatir lanplwayer*

SECOND SCHEDULE

[Section 27(3)(a)]

PAYSLIP

Pay period .....

1. Name of employer .....

2. NPF Reg. no. of employer .....

3. Name of worker .....

4. National Identity Card no. of worker .....

5. Date of entry .....

6. Category .....

7. Basic rate of pay .....

8. Total no. of days present at work .....

9. No. of day(s) of leave taken .....

9A. Number of accumulated leave as at January .....
[Inserted 12/2023 (cio 207/2023).]

10. No. of hours of extra work performed and the corresponding extra payment

(a) ..... x 1.5 = ...

(b) ..... x 2 = ...

(c) ..... x 3 = ...

11. Allowance(s) paid (please specify) .....

12. Piece rate earnings .....

13. Total remuneration .....

14. Deduction(s) made and the reasons therefor .....

.....
.....

15. Net pay .....

16. Contribution to Portable Retirement Gratuity Fund .....

[Second sch. Amended by s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

THIRD SCHEDULE

[Section 42]

WAGE GUARANTEE FUND ACCOUNT

1. Particulars of insolvent employer

(1) Name and address of employer .....

(2) Phone no. .....

(3) National pensions registration number .....

2. Particulars of worker

(1) National Identity Card no. .....

(2) Name .....

(3) Phone no. .....

(4) Address .....

(5) Occupation .....

(6) Basic wage per month/fortnight/week .....

(7) Details of remuneration paid .....
.....
(*including wages, end of year bonus and notice*)

(8) Details of unpaid remuneration .....

3. Details of employment

(1) Date joined service .....

(2) Date of termination of employment .....

(3) Reason for termination of employment .....

I certify that the above information is correct.

.....	.....
Name of employer	Signature
.....	
Date	Seal of employer/company (where applicable)

FOURTH SCHEDULE

[Sections 44, 52, 55 and 60]

ALLOWANCES OR GRANT

		(Rs)	
1.	Meal allowance	85	per day
2.	Maternity allowance	3,000	
3.	Death grant	5,000	
4.	Mobile allowance	100	per month

FIFTH SCHEDULE

[Section 68]

CERTIFICATE OF EMPLOYMENT

This is to certify that ..... (*name of worker*), of ..... (residential address) was employed as ..... (*position held by worker*) with ..... (*name of employer*) from ..... (*date of commencement of agreement*) to ..... (*date of termination of agreement*).

....

Date Signature of employer

SIXTH SCHEDULE

[Sections 78(2)(a) and 84(2)]

PART I – TRANSITION UNEMPLOYMENT BENEFIT

FOR PERIOD STARTING ON 1 APRIL 2020 AND ENDING ON 31 MARCH 2021

Period after termination of employment or registration with supervising officer	Rate of benefit per month
First 6 months	90% of basic wage or salary
From 7th month to end of 12th month	60% of basic wage or salary

PART II – TRANSITION UNEMPLOYMENT BENEFIT

FOR ANY PERIOD OTHER THAN PERIOD SPECIFIED IN PART I

Period after termination of employment or registration with supervising officer	Rate of benefit per month
First 3 months	90% of basic wage or salary
From 4th month to end of 6th month	60% of basic wage or salary
From 7th month to end of 12th month	30% of basic wage or salary but not less than 3,000 rupees

[Sixth Sch. repealed and replaced by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

SEVENTH SCHEDULE

[Sections 79 and 84(9)]

PART I – FINANCING OF WORKFARE PROGRAMME FUND

1. The Workfare Programme Fund shall be financed –

(a) for the period starting on July 2023 and ending on June 2025, to the level of 0.75 per cent;

(b) thereafter, to the level of 0.5 per cent,

from the levy of one and a half per cent contributed by the employers under the Human Resource Development Act.
[RR 12/2023 (cio 20/7/2023).]

PART II – FINANCING OF TRANSITION UNEMPLOYMENT BENEFIT

2. The Transition Unemployment Benefit shall be financed from –

(a) the one per cent contribution of the worker in the National Savings Fund Account of the worker and any interests accrued thereon, to the extent of 50 per cent of the Transition Unemployment Benefit; and

(b) the Workfare Programme Fund to the level of 50 per cent of the Transition Unemployment Benefit.

3. Where the total amount under paragraph 2(a) is not sufficient, any deficiency shall be met from the Workfare Programme Fund.
[Amended 15/21 (cio 5/8/21).]

[Seventh Sch repealed and replaced by reg. 3 of GN 233 of 2019 w.e.f. 24 October 2019; amended by s. 94 of Act 15 of 2021 w.e.f. 5 August 2021; s. 90 of Act 12 of 2023 w.e.f. 20 July 2023.]

EIGHTH SCHEDULE

[Section 84(5)]

TRANSITION UNEMPLOYMENT BENEFIT

1. Particulars of employer

(1) Name .....

(2) Phone no. .....

(3) National Pensions registration no. .....

(4) Address .....

2. Particulars of worker

(1) National Identity Card no. .....

(2) Name .....

(3) Phone no. .....

(4) Address .....

(5) Occupation .....

(6) Basic wage per month/fortnight/week* .....

3. Details of employment

(1) Date joined service .....

(2) Date of termination of employment .....

(3) Reason for termination of employment .....

I certify that the worker referred to in paragraph 2 is registered in the Workfare Programme and is entitled for the transition unemployment benefit.

.....	.....
Date	Supervising Officer Ministry of Labour, Industrial Relations, Employment and Training

[Eighth Sch. amended by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

NINTH SCHEDULE
[Section 24A]

SECTORS

1. Blockmaking, construction, stone crushing and related industries

2. Manufacturing sector governed by the Factory Employees (Remuneration) Regulations 2019

[Ninth Sch. added by s. 57(p) of Act 1 of 2020 w.e.f. 23 March 2020.]

TENTH SCHEDULE
[Section 72]

1. Development Bank of Mauritius Ltd

2. Mauritius Investment Corporation Ltd

3. State Investment Corporation Limited

[Tenth Sch. added by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]

ELEVENTH SCHEDULE
[Section 72A]

1. Air traffic control

2. Air transport services, or any airline and aviation related services

3. Civil Aviation and airport, including ground handling and ancillary services

4. Port and other related activities in the ports including loading, unloading, shifting, storage, receipt and delivery, transportation and distribution as specified in section 36 of the Ports Act

[Tenth Sch. added by s. 71 of Act 7 of 2020 w.e.f. 7 August 2020.]