

LABOUR ACT

ARRANGEMENT OF SECTIONS

PART 1

General provisions as to protection of wages, contracts of employment and terms and conditions of employment

Protection of wages

SECTION

1. Manner of payment.
2. Agreement as to place and manner of spending wages illegal.
3. Wages not to be paid on certain premises.
4. Advances.
5. Deductions (including deductions for overpayment of wages).
6. Authority of employer to open shop.

Contracts of employment

7. Written particulars of terms of employment.
8. Medical examination.
9. Contracts: general.
10. Transfer to other employment.
11. Termination of contracts by notice.
12. Common employment not a defence.

Terms and conditions of employment

13. Hours of work and overtime.
14. Provision of transport.
15. Periodicity of payment of wages.
16. Sick leave.
17. Duty of employer to provide work.
18. Annual holidays with pay.
19. Calculation of leave pay and sickness benefits.
20. Redundancy.

General

21. Offences.
22. Exemptions.

PART II

Recruiting

Recruiters and recruiting generally

SECTION

23. Prohibition of recruiting except under permit or licence.
24. Employer's permit.
25. Recruiter's licence.
26. Restrictions on recruiting.
27. Recruiting: miscellaneous provisions.
28. Health.
29. Transport.
30. Expenses and maintenance.
31. Repatriation.
32. Capitation fee.

Recruiting for employment in Nigeria

33. Procedural requirements.
34. Right to be accompanied by family.
35. Deferment of wages.

Recruiting for employment outside Nigeria

36. Power of prohibition.
37. International agreements.
38. Duration of contract and return passages.
39. Procedure prior to leaving Nigeria.
40. Special terms and conditions of contract.
41. Surrender of permits.
42. Embarkation check.
43. Exemption from customs on repatriation.
44. Right to be accompanied by family at employer's expense.

Enforcement provisions

45. Inducing recruiting by fraud, etc.
46. Neglect or ill-treatment.
47. Other offences.
48. Application.

PART III

Special classes of worker and miscellaneous special provisions

Apprentices

49. Contracts of apprenticeship.
50. Attestation.
51. Retention of apprentice after expiry of contract.
52. Regulations.
53. Offences.

Employment of women

- 54. Maternity protection.
- 55. Night work.

SECTION

- 56. Underground work.
- 57. Regulations.
- 58. Offences.

Young persons

- 59. General.
- 60. Night work.
- 61. Shipping.
- 62. Register of young persons in industrial undertakings.
- 63. Regulations.
- 64. Offences.

Domestic service

- 65. Regulations.

Labour health areas

- 66. Labour health areas.
- 67. Regulations.

Registration, employment exchanges, etc.

- 68. Registration of employers.
- 69. Labour schemes.
- 70. Employment exchanges.
- 71. Fee-charging employment agencies.
- 72. Offences.

Forced labour

- 73. Prohibition of forced labour.
- 74. Labour required in emergencies and for communal Obligations.

PART IV

Supplemental

Records and returns

- 75. Records.
- 76. Returns.

Administration

- 77. Authorised labour officers.

SECTION

- 78. Powers of authorised labour officers.
- 79. Delegation of functions.

Settlement of disputes

- 80. Jurisdiction.
- 81. Labour complaints.
- 82. Powers of the court.
- 83. Procedure.
- 84. Compensation, and provision of food.
- 85. Costs.

Miscellaneous

- 86. Application to public authorities.
- 87. Contracts made abroad.
- 88. Regulations.
- 89. Savings and exemptions.
- 90. Repeal, and transitional and saving provisions.
- 91. Interpretation.
- 92. Short title.

SCHEDULE

Transitional and saving provisions

LABOUR ACT

An Act to repeal and replace the Labour Code Act and consolidate the law relating to labour.

[1974 No. 21.]

[1st August, 1971]

[Commencement.]

PART I

General provisions as to protection of wages, contracts of employment and terms and conditions of employment

Protection of wages

1. Manner of payment

(1) Subject to this section-

- (a) the wages of a worker shall in all contracts be made payable in legal tender and not otherwise; and
- (b) if in any contract the whole or any part of the wages of a worker is made payable in any other manner the contract shall be illegal, null and void.

(2) An employer may provide food, a dwelling place or any other allowance or privilege as a part of a worker's remuneration if the food, dwelling place, allowance or privilege is prescribed by law, by a collective agreement or by an arbitration award because it is customary or desirable in view of the nature of the industry or occupation in which the worker is engaged; but in no case shall an employer give to any worker any intoxicating liquor or noxious drug by way of remuneration.

(3) Except where otherwise expressly permitted by this Act, wages payable in money shall be paid only in legal tender or, with the prior consent in writing of the worker concerned, by cheque or postal order and payment or purported payment in any other form shall be illegal, null and void.

2. Agreement as to place and manner of spending wages illegal

No employer shall impose in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom any wages paid to the worker are to be expended; and every contract between an employer and a worker containing any such terms shall be illegal, null and void.

3. Wages not to be paid on certain premises

Wages shall not be paid to a worker in premises used for the sale of intoxicating liquor or for the retail sale of goods, except in the case of a worker employed on the premises.

4. Advances

(1) No employer may make to a worker an advance of wages in excess of one month's wages.

(2) Where an advance in respect of wages has been paid to a worker the minimum period for the recovery of the advance by the employer shall be three months.

(3) No advance in respect of wages shall be paid to a worker who is liable to repay any part of such an advance paid to him previously, except in cases of necessity as so approved by the employer.

(4) No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of wages paid to a worker in anticipation of the regular period of payment of the wages.

(5) The State Authority may by order declare that this section shall not apply to any particular kind of advance paid to any particular class of worker or to all workers.

1. Deductions (including deductions for overpayment of wages)

(1) Except where it is expressly permitted by this Act or any other law, no employer shall make any deduction or make any agreement or contract with a worker for any deduction from the

wages to be paid by the employer to the worker, or for any payment to the employer by the worker, for or in respect of any fines:

Provided that, with the prior consent in writing of an authorised labour officer, a reasonable deduction may be made in respect of injury or loss caused to the employer by the wilful misconduct or neglect of the worker.

(2) An employer may with the consent of a worker make deductions from the wages of the worker and pay to the appropriate person any contributions to provident or pension funds or other schemes agreed to by the worker and approved by the State Authority.

(3) Upon the registration and recognition of any of the trade unions specified in Part A of Schedule 3 to the Trade Unions Act, the employer shall-

[1986 No. 17. Cap. T14.]

- (a) make deductions from the wages of all workers eligible to be members of the union for the purpose of paying contributions to the trade union so recognised; and
- (b) pay any sum so deducted to the union,

but a worker may contract out of the system, in writing, and where he has done so, no deductions shall be made from his wages in respect of contributions mentioned in paragraph (a) of this section.

(4) No deductions shall be made from the wages and salaries of persons who are eligible members of any of the trade unions specified in Part B of Schedule 3 of the Trade Unions Act except if the person concerned has accepted, in writing, to make voluntary contributions to the trade union.

(5) Deductions may be made from the wages of a worker in respect of overpayment of wages, but only in respect of any such overpayment made during the three months immediately preceding the month in which the overpayment was discovered.

[1989 No. 25.]

(6) An employer shall, when making a payment to a trade union under paragraph (b) of subsection (3) of this section, include with such payment a list of the employees from whom deductions were made pursuant to paragraph (c) of the said subsection.

(7) Notwithstanding any other provisions of this Act, the total amount of deductions that may be made from the wages of a worker in anyone month shall not exceed one third of the wages of the worker for that month.

2. Authority of employer to open shop

(1) The Minister may, after consultation with the State Authority, give approval to an employer to establish a shop for the sale of provisions to his workers, but no worker shall be compelled by any contract or agreement, written or oral, to purchase provisions at any shop so established.

(2) No employer shall in any place of employment establish a shop for the sale of provisions to his workers (or permit such a shop to be established or kept) otherwise than in accordance with subsection (1) of this section.

Contracts of employment

3. Written particulars of terms of employment

(1) Not later than three months after the beginning of a worker's period of employment with an employer, the employer shall give to the worker a written statement specifying-

- (a) the name of the employer or group of employers, and where appropriate, of the undertaking by which the worker is employed;
- (b) the name and address of the worker and the place and date of his engagement;
- (c) the nature of the employment;
- (d) if the contract is for a fixed term, the date when the contract expires;
- (e) the appropriate period of notice to be given by the party wishing to terminate the contract, due regard being had to section 11 of this Act;
- (f) the rates of wages and method of calculation thereof and the manner and periodicity of payment of wages;
- (g) any terms and conditions relating to-
 - (i) hours of work; or
 - (ii) holidays and holiday pay; or
 - (iii) incapacity for work due to sickness or injury, including any provisions for sick pay; and
- (h) any special conditions of the contract.

(2) If after the date to which the said statement relates there is a change in the terms to be included or referred to in the statement the employer-

- (a) shall, not more than one month after the change, inform the worker of the nature of the change by a written statement; and
- (b) if he does not leave a copy of the statement with the worker, shall preserve the statement and ensure that the worker has reasonable opportunities of reading it
- (c) in the course of his employment, or that it is made reasonably accessible to the worker in some other way.

(3) A statement under subsection (1) or (2) of this section may, for all or any of the particulars to be given by the statement, refer the worker to some other document which the worker has reasonable opportunities of reading in the course of his employment or which is made reasonably accessible to the worker in some other way.

(4) If the employer, in referring in the said statement to any such document, indicates to the worker that future changes in the terms particularised in the document will be entered in the document (or recorded by some other means for the information of persons referred to in the document), the employer need not under subsection (2) of this section inform the worker of any such change which is duly entered or recorded not more than one month after the change is made.

(5) If, not more than six months after the termination of a worker's period of employment, a further period of employment is begun with the same employer and the terms of employment are the same, no statement need be given under subsection (1) of this section in respect of the second period of employment, so however that this subsection

shall be without prejudice to the operation of subsection (2) of this section if there is a change in the terms of employment.

- (6) The provisions of this section in respect of written statements shall not apply if-
- (a) a worker has a written contract of employment which covers each of the particulars mentioned in subsection (1) of this section; and
 - (b) he has a copy of that written contract.

8. Medical examination

(1) Every worker who enters into a contract shall be medically examined by a registered medical practitioner at the expense of the employer.

(2) The State Authority may by order exempt from the requirement of medical examination workers entering into contracts for-

- (a) employment in agricultural undertakings not employing more than a limited number of workers (the limit being specified in the order); or
- (b) employment in the vicinity of the workers' homes-
 - (i) in agricultural work; or
 - (ii) in non-agricultural work which the State Authority is satisfied is not of a dangerous character or likely to be injurious to the health of the workers.

9. Contracts: general

(1) No contract shall be deemed to be binding on the family or dependants of a worker unless it contains an express provision to that effect.

(2) An employer shall be responsible for the performance of any contract made by any person acting on his behalf.

(3) Except in the case of a contract of apprenticeship, no person under the age of sixteen years shall be capable of entering into a contract of employment under this Act.

(4) No contract shall provide for the payment of wages at intervals exceeding one month unless the written consent of the State Authority has been previously obtained.

(5) No worker shall be bound by virtue of any contract under this Act to answer for the debt, default or miscarriage of any other person.

(6) No contract shall-

- (a) make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union; or
- (b) cause the dismissal of, or otherwise prejudice, a worker-
 - (i) by reason of trade union membership; or
 - (ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours; or

- (iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become, or for any other reason is not, a member of a trade union.

(7) A contract shall be terminated-

- (a) by the expiry of the period for which it was made; or
- (b) by the death of the worker before the expiry of that period; or
- (c) by notice in accordance with section 11 of this Act or in any other way in which a contract is legally terminable or held to be terminated.

(8) The termination of a contract by the death of a worker shall be without prejudice to the legal claims of his personal representatives or dependants.

10. Transfer to other employment

(1) The transfer of any contract from one employer to another shall be subject to the consent of the worker and the endorsement of the transfer upon the contract by an authorised labour officer.

(2) Before endorsing the transfer upon the contract, the officer in question-

- (a) shall ascertain that the worker has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as a result of misrepresentation or mistake; and
- (b) if by the transfer the worker will-
 - (i) change his form of employment from one which is the subject of an exemption order made under section 8 (2) of this Act; or
 - (ii) be subject to such a change of conditions as in the officer's opinion renders such a course advisable,

may require the worker to be medically examined or re-examined, as the case may be.

11. Termination of contracts by notice

(1) Either party to a contract of employment may terminate the contract on the expiration of notice given by him to the other party of his intention to do so.

(2) The notice to be given for the purposes of subsection (1) of this section shall be-

- (a) one day, where the contract has continued for a period of three months or less;
- (b) one week, where the contract had continued for more than three months but less than two years;
- (c) two weeks, where the contract has continued for a period of two years but less than five years; and
- (d) one month, where the contract had continued for five years or more.

(3) Any notice for a period of one week or more shall be in writing.

(4) The periods of notice specified in subsection (2) of this section exclude the day on which notice is given.

(5) Nothing in this section affects any right of either party to a contract to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the making of this Act.

(6) Nothing in this section shall prevent either party to a contract from waiving his right to notice on any occasion, or from accepting a payment in lieu of notice.

(7) All wages payable in money shall be paid on or before the expiry of any period of notice.

(8) If an employer gives notice to terminate the contract of employment of a worker who has been continuously employed for three months or more, the employer shall not be liable under this section to make any payment in respect of a period during which the worker is absent from work with the leave of the employer granted at the request of the worker.

(9) In the calculation of a payment in lieu of notice, only that part of the wages which a worker receives in money, exclusive of overtime and other allowances, shall be taken into account.

12. Common employment not a defence

(1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that that person was, at the time the injuries were caused, in common employment with the person injured.

(2) Any provisions contained in a contract of service or apprenticeship, or in an agreement collateral thereto (including a contract or agreement entered into before the commencement of this section) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) For the purposes of this section, the expression "**personal injuries**" includes any disease and any impairment of a person's physical or mental condition arising out of his employment, and "injury" and cognate expressions shall be construed accordingly.

Terms and conditions of employment

13. Hours of work and overtime

(1) Normal hours of work in any undertaking shall be those fixed-

- (a) by mutual agreement; or
- (b) by collective bargaining within the organisation or industry concerned; or
- (c) by an industrial wages board (established by or under an enactment providing for the establishment of such boards) where there is no machinery for collective bargaining.

(2) Hours which a worker is required to work in excess of the normal hours fixed under subsection (1) of this section shall constitute overtime.

(3) Where a worker is at work for six hours or more a day, his work shall be interrupted (to the extent which is necessary, having regard to its character and duration and to working conditions in general) by allowing one or more suitably spaced rest-intervals of not less than one hour on the aggregate:

Provided that-

- (a) exceptions may be made to the rule in this subsection where unforeseen circumstances render them necessary; and
- (b) where it is found unavoidable in view of the nature of the work and the working conditions in general, time-off for a meal at the worksite or in the immediate vicinity may be substituted for the rest-interval.

(4) In subsection (3) of this section, "**rest-interval**" means an interruption of work of which the length is fixed beforehand and during which the worker is free to dispose of his time and is not required to remain at the place of work.

(5) Where, by reason of its connection with a mechanical process or as a result of other circumstances, the work involves continuous strain or is particularly trying in other ways, the worker shall be allowed the requisite number of suitably adjusted and spaced breaks in the work.

(6) In subsection (5) of this section, "**break in the work**" means a short intermission in the work fixed beforehand which is ordered with a view to allowing the worker to detach himself from his work and which is not to be counted as a rest-interval or time-off under subsection (3) of this section.

(7) In every period of seven days a worker shall be entitled to one day of rest which shall not be less than 24 consecutive hours; if any reduction takes place in the weekly rest-period-

- (a) corresponding time-off from work shall be allowed as soon as possible (and in any case not later than fourteen days thereafter); or
- (b) wages at overtime rates shall be paid in lieu thereof.

14. Provision of transport

(1) Where a worker is required to travel sixteen kilometres or more from his normal place of work to another worksite he shall be entitled to free transport or an allowance in lieu thereof.

(2) Where the employer provides a vehicle or vessel for the purposes of subsection (1) of this section, he shall ensure that the vehicle or vessel is suitable, is in good sanitary condition and is not overcrowded.

15. Periodicity of payment of wages

Wages shall become due and payable at the end of each period for which the contract is expressed to subsist, that is to say, daily, weekly or at such other period as may be agreed upon:

Provided that, where the period is more than one month, the wages shall become due and payable at intervals not exceeding one month.

16. Sick leave

Subject to the Workmen's Compensation Act, a worker shall be entitled to be paid wages up to twelve working days in anyone calendar year during absence from work caused by temporary illness certified by a registered medical practitioner:

[Cap. W6.]

Provided that this section shall not apply unless-

- (a) the contract remains in existence during the period of absence and the worker is ready and willing to perform his part of the contract save for the incapacity produced by the illness; and
- (b) the worker, if so requested by the employer, consents to be examined by a qualified medical practitioner nominated by the employer.

17. Duty of employer to provide work

(1) Except where a collective agreement provides otherwise, every employer shall, unless a worker has broken his contract, provide work suitable to the worker's capacity on every day (except rest days and public holidays) on which the worker presents himself and is fit for work; and, if the employer fails to provide work as aforesaid, he shall pay to the worker in respect of each day on which he has so failed wages at the same rate as would be payable if the worker had performed a day's work:

Provided that-

- (a) where, owing to a temporary emergency or other circumstances beyond the employer's control (the period of which shall not exceed one week or such longer period as an authorised labour officer may allow in any particular case), the employer is unable to provide work, the worker shall be entitled to those wages only on the first day of the period in question; and
- (b) this subsection shall not apply where the worker is suspended from work as a punishment for a breach of discipline or any other offence.

(2) Where a worker is employed in any agricultural undertaking on a plantation on a contract of service under which he earns wages calculated by reference to the number of days' work performed in each month of his service, the employer shall provide the worker with work suitable to his capacity on not less than 24 days in each month during the whole of which he is so employed; and, if the employer fails to provide work as aforesaid on any of those 24 days on which the worker presents himself and is fit for work, he shall pay to the worker in respect of each such day wages at the same rates as would be payable if the worker had performed a day's work:

Provided that, in computing 24 days for the purposes of this subsection, account shall not be taken of more than six days in anyone week.

(3) Any dispute between an employer and a worker as to the worker's fitness for work under subsection (1) or (2) of this section may be referred to an authorised labour officer, who may take such medical or other advice as he thinks appropriate and whose decision shall be final.

18. Annual holidays with pay

(1) Every worker shall be entitled after twelve months' continuous service to a holiday with full pay of-

- (a) at least six working days; or
- (b) in the case of a person under the age of sixteen years (including an apprentice), at least twelve working days.

(2) The holiday mentioned in subsection (1) of this section may be deferred by agreement between the employer and the worker:

Provided that the holiday-earning period shall not thereby be increased beyond 24 months' continuous service.

(3) It shall be unlawful for an employer to pay wages in lieu of the holiday mentioned in subsection (1) of this section to a worker whose contract has not terminated.

(4) A person who ceases to be employed after having completed-

- (a) less than twelve but not less than six months in the continuous employment of an employer; or
- (b) not less than six months in the continuous employment of an employer since he last qualified for a holiday under subsection (1) of this section,

shall be paid with respect to that period of employment an amount bearing the same proportion to full pay for one week at his normal rate as that period bears to twelve months.

19. Calculation of leave pay and sickness benefits

In the calculation of leave pay and sickness benefits only that part of his wages which a worker receives in money (excluding overtime and other allowances) shall be taken into account.

20. Redundancy

(1) In the event of redundancy-

- (a) the employer shall inform the trade union or workers' representative concerned of the reasons for and the extent of the anticipated redundancy;
- (b) the principle of "last in, first out" shall be adopted in the discharge of the particular category of workers affected, subject to all factors of relative merit, including skill, ability and reliability; and
- (c) the employer shall use his best endeavours to negotiate redundancy payments to any discharged workers who are not protected by regulations made under subsection (2) of this section.

(2) The Minister may make regulations providing, generally or in particular cases, for the compulsory payment of redundancy allowances on the termination of a worker's employment because of his redundancy.

(3) In this section "**redundancy**" means an involuntary and permanent loss of employment caused by an excess of manpower.

21. Offences

(1) Any employer who-

- (a) enters into any agreement or contract or gives any remuneration for employment contrary to this Part or declared by this Part to be illegal or unlawful; or
- (b) makes any deduction from the wages of any worker or receives any payment from any worker contrary to this Part; or
- (c) contravenes section 6 (2), 7,13 (3), (5) or (7),14 or 18 (3) of this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding ₦800 or, for a second or subsequent offence, to a fine not exceeding ₦1,500.

(2) Where an employer is charged with an offence under subsection (1) of this section-

- (a) he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and
- (b) if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he has used due diligence to enforce this Part and that the other person has committed the offence without the employer's knowledge, consent or connivance, the other person shall be convicted of the offence and the employer shall be exempted from any liability.

(3) Where it is made to appear to the satisfaction of the Minister at the time of the discovery of an apparent offence under subsection (1) of this section-

- (a) that the employer in question has used due diligence to enforce this Part;
- (b) by what person the offence had been committed; and
- (c) that the offence has been committed without the knowledge, connivance or consent of the employer,

the Minister shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

22. Exemptions

(1) Nothing in this Part shall apply to a worker who is the father, mother, husband, wife, son or daughter of the employer.

(2) Nothing in this Part of this Act shall apply to any body of persons working on any agreement of co-operation.

PART II

Recruiting

Recruiters and recruiting generally

23. Prohibition of recruiting except under permit or licence

(1) Subject to this section and section 48 of this Act, no person or association shall recruit any citizen for employment as a worker in Nigeria or elsewhere except in pursuance of an employer's permit or recruiter's licence.

(2) Where a worker-

- (a) is employed by an undertaking for which it is proposed that he should recruit other workers;
- (b) is formally commissioned in writing by his employer to recruit other workers for the undertaking;
- (c) does not receive any remuneration or other advantage from the recruiting; and
- (d) does not make advances of wages to the workers he recruits,

the Minister may waive the need for a permit or licence under subsection (1) of this section and issue to the worker a certificate to recruit citizens for service as workers in Nigeria, subject to such conditions (which shall be endorsed on the certificate) as the Minister thinks fit.

(3) If any worker to whom a certificate has been issued under subsection (2) of this section is convicted of an offence under section 46 or 47 of this Act, the Minister may forthwith cancel the certificate.

24. Employer's permit

(1) If any person is desirous of recruiting-

- (a) for himself or any other person; or
- (b) for any association of employers; or
- (c) for a public authority; or
- (d) for the government of any country outside Nigeria,

the services of any citizen as a worker in Nigeria or elsewhere, he may apply in writing to the Minister giving the particulars specified in subsection (2) of this section.

(2) The particulars referred to in subsection (1) of this section are-

- (a) the number of workers required;
- (b) the place where the work is to be performed;
- (c) the nature of the work;
- (d) the wages to be paid;
- (e) the duration of the proposed contract; and
- (f) whether or not it is desired to obtain the workers through a recruiter.

(3) Where the work is to be performed outside Nigeria, the Minister may require the production of a letter of recommendation from the government of the place where the work is to be performed certifying that the applicant is a fit and proper person to be granted a permit.

(4) Upon receipt of an application under subsection (1) of this section and, if required, a letter of recommendation under subsection (3) of this section, the Minister may grant to the applicant a permit to engage personally or through a recruiter the number of workers required (or a smaller number) within such area as may be specified in the permit.

(5) The particulars of every permit granted under this section shall be published in the Federal *Gazette*, and no such permit shall remain in force for a longer period than six months from the date of issue.

(6) It shall be an implied term of every permit granted under this section that the workers recruited shall be grouped at the place of employment under suitable ethnical conditions.

(7) Except in the case of workers recruited for the service of a public authority, the Minister shall-

- (a) before granting a permit under this section, require security in such amount as he may think fit (either by way of deposit or otherwise) to be given by the employer or his agent or both-
 - (i) for the payment of the wages and travelling expenses of the workers about to be recruited;
 - (ii) for the payment of any expenses which may be incurred by the Federal Government in respect of the workers or their families; and
 - (iii) for the payment of any fine which may be imposed upon the employer under this Part of this Act; and
- (b) endorse upon the permit full particulars of the security given.

25. Recruiter's licence

(1) The Minister may licence fit and proper persons to recruit citizens in Nigeria for the purpose of-

- (a) employment as workers outside Nigeria; or
- (b) employment as workers in Nigeria:

Provided that any person who has been granted a licence to recruit citizens for employment outside Nigeria may also be granted a licence to recruit citizens for employment inside Nigeria.

(2) A licence granted under this section shall be valid for a period of twelve months from the date of issue, and notification of the grant shall be published in the Federal *Gazette*.

(3) The grant of a licence under this section may be made subject to such conditions and restrictions as the Minister may think fit; and any such conditions or restrictions shall be endorsed upon the licence.

(4) Every applicant for a licence under this section shall, if so required by the Minister, furnish such financial or other security for his proper conduct as may be required.

(5) The Minister may at any time-

- (a) suspend a licence granted under this section pending the result of any investigation into any alleged irregularity; and
- (b) withdraw the licence if the licensee has been convicted of any offence under this or any other law or has otherwise so conducted himself as in the opinion of the Minister to be no longer a fit and proper person to undertake recruiting operations.

(6) Where a licence is suspended or withdrawn under subsection (5) of this section, notification of the suspension or withdrawal shall be published in the Federal *Gazette*.

26. Restrictions on recruiting

(1) No recruiting operations shall be conducted in any area in which recruiting is prohibited by the Minister by order or in a labour health area.

(2) No recruiter shall recruit workers for service with any person-

- (a) unless that person is in possession of a valid permit granted under section 24 of this Act; or
- (b) in excess of the number of workers authorised to be recruited by the permit; or
- (c) from any area or place which is not specified in the permit.

(3) No public officer shall-

- (a) act as a recruiting agent; or
- (b) exercise pressure upon possible recruits; or
- (c) receive from any source whatsoever any special remuneration or other special inducement for assistance in recruiting.

27. Recruiting: miscellaneous provisions

(1) Every recruiter shall keep in the prescribed form records from which the regularity of every recruiting operation and of his own conduct can be verified and shall produce the records for inspection on demand by an authorised labour officer.

(2) No person shall assist a recruiter in a subordinate capacity in the actual recruiting operation unless he has been approved in writing by the Minister and has been furnished with written authority by the recruiter; and, where a recruiter's assistant commits an offence under this Part of this Act, both the assistant and the recruiter shall be deemed to have committed the offence and shall each be liable on conviction to the penalty therefor.

(3) A recruiter who is the agent or assistant of another recruiter-

- (a) shall receive a fixed salary; or
- (b) with the written approval of the Minister, may receive remuneration calculated at a rate *per capita* of workers recruited, the rate being specified in the approval.

(4) No recruiter shall recruit any young person:

Provided that the Minister may in writing authorise the recruitment of young persons whose apparent age exceeds sixteen years with the consent of the parents or guardian for employment in an occupation appearing to the Minister not to be injurious to their

moral or physical development, subject to such safeguards relating to their welfare as may be stated in the authorisation.

(5) No advance in excess of a total sum of ten naira shall be paid to any recruited worker in respect of wages prior to his employment, and any advance which is made shall be subject to such conditions as the Minister may direct generally or in respect of any particular case.

(6) In any case where a recruited worker is not engaged at or near the place of recruiting, the Minister may in his discretion require, either generally or in any specific recruiting operation, the issue to the worker of a document in writing containing particulars of--

- (a) the identity of the worker;
- (b) the prospective conditions of employment; and
- (c) any advance of wages made to the worker,

and containing such other particulars as the Minister may consider necessary.

(7) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

(8) Where a worker's family accompanies him to his place of employment under section 34 or 44 of this Act, he and the members of his family shall not be separated except at the express request of the persons concerned.

28. Health

(1) Every recruited worker shall be medically examined under section 8 of this Act.

(2) Where a worker has been recruited for employment at a distance from the place of recruiting or has been recruited for employment outside Nigeria, the medical examination shall take place as near as may be convenient to the place of recruiting or, in the case of workers recruited for employment outside Nigeria, at the last place of departure from Nigeria.

(3) The Minister may empower an authorised labour officer before whom recruited workers are brought under section 33 or 39 of this Act to permit the departure prior to medical examination of any such worker in whose case the officer is satisfied that--

- (a) it was and is impossible for the medical examination to take place near to the place of recruiting or at the place of departure;
- (b) the worker appears fit for the journey and the prospective employment; and
- (c) the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.

(4) The Minister may in his discretion (and particularly when the journey of any recruited workers is of such a duration and takes place under such conditions that the health of the workers is likely to be affected) require any recruited workers to be examined both before departure and after arrival at the place of employment.

(5) The Minister shall ensure that all necessary measures are taken for the acclimatisation and adaptation of recruited workers and for their immunisation against disease, and

may issue such directions in that behalf as he may think fit, either generally or in respect of any particular recruiting operation.

29. Transport

(1) The recruiter or employer shall provide transport to the place of employment, except in so far as an authorised labour officer may in any particular case certify that the provision of transport is impossible for the whole or any part of the journey.

(2) The Minister shall issue such directions as he may consider necessary to ensure that-

- (a) the vehicles and vessels used for the transport of recruited workers are suitable for the purpose;
- (b) when it is necessary to break the journey for the night, suitable accommodation is provided;
- (c) in the case of long journeys all necessary arrangements are made for medical assistance for the recruited workers and for their welfare;
- (d) where recruited workers have to make long journeys on foot to the place of employment-
 - (i) the length of the daily journey is compatible with the health and strength of the recruited workers; and
 - (ii) if the extent of the movement of labour renders it necessary, rest camps or rest houses are provided at suitable points on the main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention; and
- (e) adequate protection (which may include the provision of separate accommodation) is afforded during the journey to members of the family of a recruited worker accompanying him under section 34 or 44 of this Act.

(3) Where recruited workers have to make long journeys in groups to the place of employment, they shall be conveyed by a responsible person approved by an authorised labour officer.

(4) The Minister may make regulations prescribing the conditions under which recruited workers may be transported by road, sea or air and, without prejudice to the generality of the foregoing, any such regulations may make provision for compliance with Nigerian immigration laws and for the recovery of any expenses incurred by the Federal Government in repatriating any worker.

30. Expenses and maintenance

(1) The expense of the journey of recruited workers to the place of employment, including all expenses incurred for their welfare during the journey, shall be borne by the recruiter or the employer.

(2) The recruiter shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, fuel, cooking utensils, clothing and blankets.

(3) The Minister may issue directions, either generally or in respect of any particular recruiting operation, for the proper implementation of subsection (2) of this section.

(4) The Minister may by order apply all or any of the provisions of this section or any directions issued thereunder, either generally or in any particular case, to the recruitment of workers under a certificate issued pursuant to section 23 of this Act and to the worker-recruiter and employer concerned.

31. Repatriation

(1) Any recruited worker who-

- (a) becomes incapacitated by sickness or accident during the journey to the place of employment; or
- (b) is found on medical examination to be unfit for employment; or
- (c) for a reason for which he is not responsible, is not engaged after being recruited; or
- (d) is found by an authorised labour officer to have been recruited by misrepresentation or mistake,

shall be repatriated at the expense of the recruiter or employer.

(2) Where the family of a recruited worker accompanies him under section 34 or 44 of this Act, sections 27 (6) and 28 of this Act (and any requirements or directions thereunder) shall apply to the family as nearly as may be; and, if the worker-

- (a) is repatriated under subsection (1) of this section; or
- (b) dies during the journey to the place of employment,

the family shall be repatriated at the expense of the recruiter or employer.

32. Capitation fee

Upon the completion of any agreement for a contract of work by a recruited worker, there shall be paid to an authorised labour officer for the Federal Government by the employer or his agent in respect of the worker a capitation fee of such sum as may be fixed, either generally or in respect of any particular recruiting operation, by the Minister by order.

Recruiting for employment in Nigeria

33. Procedural requirements

(1) No citizen recruited for employment in Nigeria shall be employed until he has-

- (a) been medically examined under section 8 of this section and passed fit to perform the work for which he has been recruited; and
- (b) been brought before an authorised labour officer and certified as properly and duly recruited in accordance with this Part of this Act.

(2) An authorised labour officer shall, before issuing a certificate under subsection (1) (b) of this section, satisfy himself that the contract conforms with Part I of this Act and that the recruited worker-

- (a) understands and agrees to the terms upon which he is to be employed;
- (b) has not been subjected to illegal pressure or recruited by misrepresentation or mistake;
- (c) has been recruited in accordance with this Part of this Act;
- (d) is accompanied by such members of his family as he wishes to take with him under section 34 of this Act;
- (e) subject to section 27 (4) of this Act, is of or above the age of eighteen years; and
- (f) has been medically examined and passed fit to perform the work for which he has been recruited.

34. Right to be accompanied by family

(1) Any citizen who is recruited for service in Nigeria may be accompanied to his place of employment and attended during his employment there by such members of his family (not exceeding two wives and such of his children as are under the age of sixteen years) as he wishes to take with him.

(2) No person shall induce or attempt to induce any recruited worker not to require to be accompanied by members of his family under subsection (1) of this section, or prevent or attempt to prevent those members from so accompanying the worker.

(3) Notwithstanding subsection (1) of this section, the Minister may by order, either generally or in respect of any particular recruiting operation, limit the number of wives and children who may accompany a recruited worker.

35. Deferment of wages

(1) The Minister may in his discretion allow the payment of wages due to a recruited worker who is engaged for employment within Nigeria to be deferred until the completion of his contract:

Provided that not more than one half of each month's wages shall be so deferred.

(2) Where an employer is authorised to defer the wages of a worker under subsection (1) of this section-

- (a) the Minister may require the employer either to deposit a sum of money by way of security, or to enter into a bond in such form as the Minister thinks fit for the due payment of the deferred wages; and
- (b) on completion of the contract the amount of the deferred wages shall be paid to the worker at such place and in such manner as the Minister may direct.

Recruiting for employment outside Nigeria

36. Power of prohibition

The President may by order prohibit the recruitment or engagement of citizens for employment outside Nigeria in any territory named in the order.

37. International agreements

Where there is in existence a treaty, convention or other international agreement between Nigeria and any other country relating to the recruitment of citizens for employment outside Nigeria, the President may by order give the force of law to all or any of the provisions of the agreement in place of or in addition to sections 38 to 44 of this Act or any particular provisions of those sections.

38. Duration of contract and return passages

(1) The period of a foreign contract shall be in accordance with the terms of any agreement entered into between Nigeria and any other country for the purpose of the recruitment in Nigeria of Nigerian workers for service in the country concerned, and subject thereto, a foreign contract shall not be for a longer period than-

- (a) one year, if the worker is not accompanied by his family; or
- (b) two years, if the worker is accompanied by his family.

(2) Within thirty days after the expiration of a foreign contract, the employer to whom the employer's permit was granted under section 24 of this Act (or the agent of that employer) shall offer to provide the worker with a return passage for himself and his family, if any, to the place of recruitment, together with proper accommodation and maintenance on the journey.

(3) If, while a worker under a foreign contract is on a journey or voyage-

- (a) the period expressed in his contract for the duration of the contract expires; or
- (b) he gives notice to terminate the contract,

the employer may prolong the contract for a period not exceeding one month for the purpose of completing the journey or voyage.

39. Procedure prior to leaving Nigeria

(1) No citizen shall leave Nigeria under a foreign contract to serve as a worker outside Nigeria unless he has been-

- (a) medically examined under section 8 of this Act and passed fit to perform the work for which he was engaged; and
- (b) brought before an authorised labour officer and certified by that officer as duly recruited in accordance with this Part of this Act.

(2) Before issuing a certificate under subsection (1) (b) of this section, an authorised labour officer shall satisfy himself that-

- (a) a valid contract for employment of the citizen has been duly entered into in accordance with section 40 of this Act;

- (b) the citizen has obtained-
 - (i) the consent in writing of the local government authority within whose jurisdiction he ordinarily resides signified before an administrative officer, and a certificate in writing from the administrative officer to that effect; or
 - (ii) if the citizen does not ordinarily reside within the jurisdiction of a local government authority, the consent in writing of an administrative officer;
- (b) the citizen has not been subject to illegal pressure or recruited by misrepresentation or mistake;
- (c) the citizen has been recruited in accordance with this Part of this Act;
- (d) the citizen is of or above the proper age for recruitment in accordance with section 27 (4) of this Act;
- (e) the citizen has been medically examined under section 8 of this Act and passed it to perform the work for which he has been recruited.

(3) An administrative officer shall not give a certificate or his consent under subsection (2) (b) of this section unless he is reasonably satisfied with regard to the citizen concerned-

- (a) that the citizen is not abandoning wives, children or other relatives dependent upon him for maintenance and that due provision has been made for the maintenance during the citizen's absence of any persons dependent upon him; and
- (b) that the citizen's absence from Nigeria is not obviously inconsistent with engagements into which he has previously entered or with obligations imposed by law, custom or usage.

40. Special terms and conditions of contract

(1) Every foreign contract shall, in addition to any terms or conditions required to be inserted by any other provision of this Act, contain terms or conditions-

- (a) providing for workers to have one day free of work in each week;
- (b) providing for a daily ration of food to be provided free;
- (c) providing for-
 - (i) rations and half pay to be given from the date of recruitment to the date of departure from Nigeria, and full pay and rations thereafter; and
 - (ii) full pay and rations to be given on the return journey up to disembarkation in Nigeria, and rations and half pay to be given from the point of disembarkation to the place of recruitment;
- (d) providing for one half (or such other proportion as may be specified in the contract) of his wages to be paid monthly to the worker direct in lawful currency, and for the remaining portion to be remitted to an authorised labour officer in the area in which the worker was recruited for payment to the worker on his return to his home;
- (e) giving particulars of the clothing, blankets, cooking utensils, fuel and housing accommodation to be furnished by the employer free of charge;

- (f) giving particulars of the medical attention and housing accommodation to be provided by the employer free of charge;
- (g) giving particulars of the transport to be provided free to the worker from and to the place of recruitment and the place of employment;
- (h) giving particulars of the arrangements to be made with regard to the provision of rations and the matters mentioned in paragraphs (e), (f) and (g) of this subsection to members of families authorised to accompany workers;
- (i) giving particulars of the terms and conditions of repatriation of workers and their families and of the procedure to be followed in case of a refusal of repatriation;
- (j) giving particulars of the procedure to be followed in case of the death or desertion of or other casualty to the worker, with particular reference to-
 - (i) the payment of any wages due to him;
 - (ii) the distribution of any moneys in the hands of an authorised labour officer; and
 - (iii) the reporting of the death, desertion or other casualty to the proper authorities;
- (k) giving particulars of the deductions which may be made from the wages of the worker and the worker's rights of appeal;
- (l) giving particulars of the procedure to be followed for the dismissal of the worker for inefficiency arising from sickness or for any other reason, and of his rights under that procedure; and
- (m) specifying the terms of re-engagement.

(2) Every foreign contract shall be made in triplicate and entered into in the presence of an authorised labour officer, who shall-

- (a) upon the production to him of the employer's permit authorising the engagement of the worker in question, cause the contract to be read over to the worker or, if the worker is unable to understand the language in which the contract is written, to be translated orally into a language which is understood by the worker; and
- (b) if he is satisfied that the contract is fully understood and voluntarily entered into by the worker, certify by endorsement on the contract that he has carried out the provisions of this subsection and that the worker has been duly recruited under this Part of this Act; and
- (c) enter on the employer's permit the number of workers engaged thereunder.

(3) The Minister shall ensure that a copy of every foreign contract is transmitted as soon as may be to the government of the territory in which the place of employment is situated.

(4) An authorised labour officer shall keep a register of-

- (a) the name and place of abode of every worker entering into a foreign contract before him under subsection (2) of this section;
- (b) the date and duration of the contract;

- (c) the place of employment thereunder;
- (d) the name of the employer and his agent, if any; and
- (e) the nature of the employment,

and the register (or a copy of any entry therein certified as a true copy by that or another authorised labour officer) shall be received in any court as evidence of the facts stated therein without further proof.

41. Surrender of permits

Where, in relation to a foreign contract-

- (a) the full number of workers authorised by the employer's permit has been engaged; or
- (b) the period for which the permit was issued has expired,

the permit shall be rendered to an authorised labour officer for transmission forthwith to the Minister.

42. Embarkation check

Where a foreign contract is entered into before an authorised labour officer under section 40 (2) of this Act-

- (a) the employer or his agent shall supply the authorised labour officer with a list of all the workers engaged under the contract;
- (b) the authorised labour officer shall transmit the list as soon as possible to the officer in charge of police at the port of embarkation; and
- (c) the said officer in charge of police (or a police officer acting under his direction) shall-
 - (i) superintend the embarkation of the workers;
 - (ii) cause each worker to report himself so that his name may be checked with the list; and
 - (iii) on completion of the check, report to the authorised labour officer the fact of completion and such other matters in connection with the embarkation as he thinks necessary.

43. Exemption from customs on repatriation

The personal effects and tools belonging to workers (or members of their families) who--

- (a) have left Nigeria in pursuance of a foreign contract; and
- (b) are repatriated either by the employer or his agent or by the Federal Government,

shall be exempt from customs duties.

44. Right to be accompanied by family at employer's expense

Where a worker is recruited for employment outside Nigeria, it shall be the duty of the employer to provide facilities at his own expense to enable the worker's family (not

exceeding two wives and such of his children under the age of sixteen years as he wishes to accompany him) to accompany him to the place of employment and to remain there for the full duration of the contract:

Provided that, if the contract is for less than one year, provision may be made for the family to remain for less than the full duration of the contract.

Enforcement provisions

45. Inducing recruiting by fraud, etc.

(1) No person shall by fraud, falsehood, intimidation, coercion or misrepresentation induce any worker to enter into a contract under this Part, and any contract entered into by reason of any such inducement shall be void, save that the employer or his agent shall be liable to pay wages due under the contract and to provide for the return to his place of abode of any worker engaged thereunder, together with any members of his family who have accompanied him.

(2) If the employer or his agent fails to pay the wages in question or to provide for the return of the worker and the members of his family in accordance with subsection (1) of this section, the wages shall be paid, and the expenses of the return shall be borne, by the Federal Government, and may be recovered by that government from the employer or his agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

46. Neglect or ill-treatment

(1) Any employer who neglects or ill-treats any worker whom he has contracted to employ in accordance with this Part of this Act shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a term not exceeding one year, or to both.

(2) Where an employer or his agent is convicted of an offence under subsection (1) of this section, the convicting court shall report the case to the Minister, who may by notice in the Federal *Gazette* cancel any contract into which the employer or his agent may have entered in accordance with this Part of this Act.

(3) Any cancellation under subsection (2) of this section shall have effect from the date of the publication of the relevant notice.

(4) Every worker whose contract has been cancelled under subsection (2) of this section shall be maintained and conveyed to his place of abode (together with any members of his family who have accompanied him) at the expense of the Federal Government, and all sums reasonably expended upon the maintenance and conveyance, together with any wages due to the worker under the cancelled contract, may be recovered from the employer or his agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

(5) The cancellation of a contract under this section shall not prevent the taking of legal proceedings in respect of the contract under this or any other enactment.

47. Other offences

- (1) Any person who-
- (a) recruits or attempts to recruit any citizen contrary to section 23 of this Act; or
 - (b) contravenes or fails to give effect to any special condition or restriction endorsed on an employer's permit granted under section 24 of this Act, or a recruiter's licence granted to him under section 25 of this Act; or
 - (c) being a holder of a recruiter's licence, recruits citizens for a person who is not a holder of an employer's permit; or
 - (d) induces or attempts to induce, or assists or offers to assist, any citizen to leave Nigeria in order to be employed as a worker outside Nigeria otherwise than under a contract which conforms with section 40 of this Act; or
 - (e) engages or offers or agrees to employ or to find employment for any citizen as a worker outside Nigeria except under a contract which conforms with section 40 of this Act; or
 - (f) fails to surrender to the Minister an employer's permit in the circumstances mentioned in paragraphs (a) and (b) of section 41 of this Act; or
 - (g) contravenes section 26, 27, 29 or 30 of this Act (or any direction issued thereunder),

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦2,000 or to imprisonment for a period not exceeding five years, or to both.

(2) Any employer or employer's agent who fails to offer a return passage in compliance with section 38 (2) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200; and any repatriation expenses incurred by the Federal Government as a result of the failure may be recovered by that government from the employer or employer's agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

48. Application

(1) This Part is additional to and not in derogation of Part I of this Act but shall not apply to the recruiting of citizens for service as workers in Nigeria if the recruiting-

- (a) is undertaken by or on behalf of an employer who does not employ more than 25 workers; or
- (b) is undertaken within a radius of forty kilometres from the place of employment,

and is not undertaken by a professional recruiter, that is to say, a person who holds a recruiter's licence.

(2) The Minister may make regulations applying this Part of this Act (with such modifications, if any, as he thinks appropriate) to labour contractors that is to say, persons who undertake to provide another party with the services of workers while themselves remaining the employers of the workers in question.

PART III

Special classes of worker and miscellaneous special provisions

Apprentices

49. Contracts of apprenticeship

(1) The parent or, in the case of an orphan, the guardian of a young person above the age of twelve years and under the age of sixteen years may, with the consent of that person testified by his execution of a written contract of apprenticeship, apprentice that person to an employer to train him or have him trained systematically for a trade or employment in which art or skill is required, or as a domestic servant, for any term not exceeding five years.

(2) Where a young person above the age of twelve years and under the age of sixteen years is without known parents or a guardian, an authorised labour officer may authorise the apprenticeship of that person and appoint some fit and proper person to execute the written contract of apprenticeship and act generally as guardian of that young person.

(3) Any young person of the age of sixteen years or above not being under any contract of apprenticeship may apprentice himself for any term not exceeding five years to any trade or employment in which art or skill is required.

(4) The age of any person may, where no register of births is available, be enquired into and determined by the authorised labour officer before whom a contract of apprenticeship is attested in accordance with section 50 of this Act; and the age so determined shall be conclusive for the purposes of sections 49 to 53 of this Act.

(5) Every contract of apprenticeship may, with the consent of the parties, be assigned by the employer.

(6) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have power and jurisdiction to hear and determine any question arising out of a contract of apprenticeship or any dispute between any of the parties to such a contract, whether arising from breach of the contract or otherwise, and for that purpose shall have all the powers conferred upon a magistrate's court or district court, as the case may be, by sections 80 to 85 of this Act.

50. Attestation

(1) Every contract of apprenticeship and every assignment thereof shall be in writing; and no such writing shall be valid unless attested by and made with the approval of an authorised labour officer certified in writing under his hand on the contract or assignment.

(2) Before attesting any contract of apprenticeship, an authorised labour officer shall-

- (a) ascertain that the apprentice has consented to the contract and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and

- (b) satisfy himself that-
- (i) the apprentice has been medically examined and certified by a qualified medical practitioner to be physically and mentally fit to be employed and trained in the employment specified in the contract;
 - (ii) the parties to the contract have fully understood the terms of the contract before signing it or otherwise indicating consent;
 - (iii) provision has been made in the contract as to the manner in which any remuneration in cash or otherwise due to the apprentice shall be determined and as to the scale of increase in remuneration during the course of the apprenticeship;
 - (iv) provision has been made in the contract for payment of remuneration to the apprentice during illness and during holidays, if any;
 - (v) where the apprentice is unable by reason of his apprenticeship to return to his home at the end of each day, the contract contains adequate provision to ensure that the apprentice is supplied with food, clothing, accommodation and medical attention; and
 - (vi) the terms of the contract are in accordance with any regulations made under section 52 of this Act.

51. Retention of apprentice after expiry of contract

If any person with whom an apprentice has been placed, retains the apprentice in his service after the stipulated period of service has expired without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by the apprentice.

52. Regulations

The Minister may make regulations providing for-

- (a) the form of contracts of apprenticeship, the terms and conditions upon which contracts of apprenticeship may be lawfully entered into and the duties and obligations of apprentices and their masters;
- (b) the registration of contracts of apprenticeship with a specified officer;
- (c) the number of apprentices who may be apprenticed during a specified period in any specified trade or employment;
- (d) the technical and other qualifications of employers entitling them to take and train apprentices;
- (e) the conditions governing the entry of persons over twelve and under sixteen years of age into apprenticeship;
- (f) the mutual rights and obligations of employer and apprentice;
- (g) the supervision to be established over apprenticeship, with a view to ensuring in particular that the regulations governing apprenticeship and the terms of any contract of apprenticeship are observed, that the training is satisfactory and that there is reasonable uniformity in the conditions of apprenticeship; and

- (h) the holding of examinations of apprentices on the expiry of the period of apprenticeship and, where necessary, in the course of apprenticeship, determining the methods of organising the examinations and the issue of certificates based on the results thereof.

53. Offences

(1) Any person who removes or attempts to remove any apprentice who is above the age of twelve years and under the age of sixteen years from Nigeria without the authority in writing of the Minister shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a period not exceeding one year, or to both.

(2) Any person who employs an apprentice for more than six months on a contract which has not been attested under section 50 of this Act or induces or attempts to induce any apprentice to quit the service of his employer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding six months, or to both.

Employment of women

54. Maternity protection

(1) In any public or private industrial or commercial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof, a woman-

- (a) shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner stating that her confinement will probably take place within six weeks;
- (b) shall not be permitted to work during the six weeks following her confinement;
- (c) if she is absent from her work in pursuance of paragraph (a) or (b) of this subsection and had been continuously employed by her then employer for a period of six months or more immediately prior to her absence, shall be paid not less than fifty per cent of the wages she would have earned if she had not been absent; and
- (d) shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.

(2) Subsection (1) (c) of this section shall have effect notwithstanding any law relating to the fixing and payment of a minimum wage.

(3) No employer shall be liable, in his capacity as an employer, to pay any medical expenses incurred by a woman during or on account of her pregnancy or confinement.

(4) Where a woman-

- (a) is absent from her work in pursuance of subsection (1) (a) or (b) of this section; or
- (b) remains absent from her work for a longer period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy or confinement and to render her unfit for work,

then, until her absence has exceeded such a period (if any) as may be prescribed, no employer shall give her notice of dismissal during her absence or notice of dismissal expiring during her absence.

(5) In subsection (1) (d) of this section, "**child**" includes both a legitimate and an illegitimate child.

55. Night work

(1) Subject to this section, no woman shall be employed on night work in a public or private industrial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof.

(2) Subsection (1) of this section shall not apply to women employed as nurses in any public or private industrial undertaking or in any agricultural undertaking, nor to women holding responsible positions of management who are not ordinarily engaged in manual labour; and in any proceedings brought under or in connection with the said subsection (1) of this section, it shall be a good defence if it is shown to the satisfaction of the court trying the proceedings that-

- (a) the night work in question was due to an interruption of work which it was impossible to foresee and which is not of a recurring character; or
- (b) the night work in question had to do with raw material or materials in course of treatment which are subject to rapid deterioration, and it was necessary to preserve such materials from certain loss.

(3) In this section, "**night**" means-

- (a) as respects industrial undertakings, a period of at least eleven (or, where an order under subsection (4) below applies, ten) consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning; and
- (b) as respect agricultural undertakings, a period of at least nine consecutive hours including the interval between nine o'clock in the evening and four o'clock in the morning.

(4) The Minister may by order permit the eleven-hour period mentioned in subsection (3) (a) of this section to be reduced to ten hours on not more than sixty days in any one year in respect of any industrial undertaking if he is satisfied that the undertaking is influenced by the seasons of the year or that the reduction is necessary because of special circumstances.

(5) The Minister may by order exclude from the application of this section, those women covered by a collective agreement in force which permits night work for women, but before making such an order the Minister shall satisfy himself that adequate provision exists for the transportation and protection of the women concerned.

56. Underground work

(1) Subject to subsection (2) of this section, no woman shall be employed on underground work in any mine.

(2) Subsection (1) of this section shall not apply to-

- (a) women holding positions of management who do not perform manual labour; or
- (b) women employed in health and welfare services; or
- (c) women who in course of their studies spend a period of training in underground parts of a mine; or
- (d) any other women who may occasionally have to enter the underground parts of a mine for the purposes of a non-manual occupation.

57. Regulations

The Minister may make regulations prohibiting or restricting, subject to such conditions as may be specified in the regulations, the employment of women in any particular type or types of industrial or other undertakings or in any process or work carried on by such undertakings.

58. Offences

(1) Any person, who, being the proprietor, owner or manager of any industrial, commercial or agricultural undertaking, contravenes any provision of section 54 of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a term not exceeding three months, or to both.

(2) Any person who employs a woman in contravention of section 55 (1) or 56 (1) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦100 or to imprisonment for a term not exceeding one month, or to both.

Young persons

59. General

(1) No child shall-

- (a) be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the Minister; or
- (b) be required in any case to lift, carry or move anything so heavy as to be likely to injure his physical development.

(2) No young person under the age of fifteen years shall be employed or work in any industrial undertaking:

Provided that this subsection shall not apply to work done by young persons in technical schools or similar institutions if the work is approved and supervised by the Ministry of Education (or corresponding department of government) of a State.

(3) A young person under the age of fourteen years may be employed only-

- (a) on a daily wage;
- (b) on a day-to-day basis; and

(c) so long as he returns each night to the place of residence of his parents or guardian or a person approved by his parents or guardian:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

(4) No young person under the age of sixteen years shall be employed in circumstances in which it is not reasonably possible for him to return each day to the place of residence of his parent or guardian except-

- (a) with the approval of an authorised labour officer; and
- (b) on a written contract (which, notwithstanding any law to the contrary, shall not be voidable on the ground of incapacity to contract due to infancy) conforming with Part I of this Act:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

(5) No young person under the age of sixteen years shall be employed-

- (a) to work underground; or
- (b) on machine work; or
- (c) on a public holiday.

(6) No young person shall be employed in any employment which is injurious to his health, dangerous or immoral; and, where an employer is notified in writing by the Minister (either generally or in any particular case) that the kind of work upon which a young person is employed is injurious to the young person's health, dangerous, immoral or otherwise unsuitable, the employer shall discontinue the employment without prejudice to the right of the young person to be paid such wages as he may have earned up to the date of discontinuance.

(7) No person shall continue to employ any young person under the age of sixteen years after receiving notice either orally or in writing from the parent or guardian of the young person that the young person is employed against the wishes of the parent or guardian:

Provided that this subsection shall not apply to a young person employed under a written contract entered into with the approval of an authorised labour officer.

(8) No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in one day:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

60. Night work

(1) Subject to this section, no young person shall be employed during the night.

(2) Young persons over the age of sixteen years may be employed during the night in the following industrial undertakings or activities which by reason of the nature of the process are required to be carried on continuously day and night, that is to say-

- (a) in the manufacture of iron and steel, in processes in which reverberatory or regenerative furnaces are used and in the galvanising of sheet metal or wire (except the pickling process);
- (b) glass works;
- (c) manufacture of paper;
- (d) manufacture of raw sugar; and
- (e) gold mining reduction work.

(3) Young persons over the age of sixteen may be employed during the night in cases of emergency which-

- (a) could not have been controlled or foreseen;
- (b) are not of a periodical character; and
- (c) interfere with the normal working of an industrial undertaking.

(4) In this section, "**night**" means a period of at least twelve consecutive hours, including-

- (a) in the case of young persons under the age of sixteen years, the interval between ten o'clock in the evening and six o'clock in the morning; and
- (b) in the case of young persons over the age of sixteen years but under the age of eighteen years, a prescribed interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

(5) For the purposes of subsection (4) (b) of this section, the Minister may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' associations or organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

61. Shipping

(1) No young person under the age of fifteen years shall be employed in any vessel, except where-

- (a) the vessel is a school or training vessel and the work on which the young person is employed is-
 - (i) work of a kind approved by the Minister; and
 - (ii) supervised by a public officer or by a public department; or
- (b) only members of the young person's family are employed.

(2) No young person shall be employed in a vessel as a trimmer or stoker:

Provided that, where a trimmer or stoker is required in a place in which only young persons are available, young persons of and over the age of sixteen years may be employed in that capacity, so however that two such young persons shall be engaged and employed in the place of each trimmer or stoker required.

(3) No young person shall be employed in any vessel other than a vessel in which only persons of his family are employed unless he is in possession of a certificate signed by a registered medical practitioner to the effect that he is fit for the employment or work; and, where such a certificate is issued, then-

- (a) subject to paragraph (b) of this subsection, the certificate shall be valid for one year from the date of issue, or, if it would otherwise expire in the course of a voyage, until the end of the voyage in question; and
- (b) the certificate may at any time be revoked by a qualified medical practitioner if he is satisfied that the young person is no longer fit for the employment or work.

(4) There shall be included in every agreement with the crew of a vessel a list of young persons who are members of the crew, together with particulars of the dates of their births; and, in the case of a vessel in which there is no such agreement, the master shall keep a register (which shall at all times be open to inspection by an authorised labour officer or customs officer) of such young persons as may be employed in the vessel with particulars of the dates of their births and the dates on which they became or ceased to be members of the crew.

(5) In this section-

"**customs officer**" means any person employed in the Nigeria Customs Service, or for the time being performing duties in relation to customs and excise;

"**vessel**" includes floating craft of every description except ships of war.

62. Register of young persons in industrial undertakings

Every employer of young persons in an industrial undertaking shall keep a register of all young persons in his employment with particulars of their ages, the date of employment and the conditions and nature of their employment and such other particulars as may be prescribed, and shall produce the register for inspection when required by an authorised labour officer.

63. Regulations

The Minister may make regulations-

- (a) exempting any occupation which forms part of an industrial undertaking from all or any of the provisions of sections 59 to 62 of this Act or any regulations made under this section;
- (b) providing for the registration and identification of young persons;

- (c) prescribing the records to be kept and the returns to be made by employers of young persons;
- (d) further restricting the employment of young persons in specified occupations;
- (e) prescribing additional conditions upon which young persons may be engaged or employed; and
- (f) making further provision for the care of young persons by employers.

64. Offences

(1) Any person who employs a young person in contravention of sections 59 to 62 of this Act or any regulations made under section 63 of this Act, the proprietor, owner and manager of any undertaking in which a young person is so employed and any parent or guardian of a young person who permits the young person to be so employed shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦100.

(2) If, in the case of a charge for an offence under subsection (1) of this section it is alleged by the person conducting the prosecution that the person in respect of whom the offence was committed was under the age of twelve, fourteen, fifteen, sixteen or eighteen years at the date of commission of the alleged offence, the magistrate or other person presiding at the hearing shall, after such enquiry as he may think necessary and after hearing any evidence that may be tendered by any party to the proceedings, determine the age of the young person; and any such determination shall be final.

Domestic service

65. Regulations

The Minister may make regulations providing for-

- (a) the engagement, repatriation or supervision of domestic servants;
- (b) the employment of women and young persons as domestic servants;
- (c) the housing accommodation and sanitary arrangements of domestic servants; and
- (d) the conditions of domestic service generally.

Labour health areas

66. Labour health areas

Where the Minister is satisfied that an industrial or agricultural undertaking is situated in an area which, having regard to the existing medical and health conditions and facilities, water supplies and communications, is remote and isolated, he may by order declare the area a labour health area; and, during the period of employment of any worker in a labour health area, the employer shall provide such facilities and make such arrangements as may be specified by regulations made under section 67 of this Act, and shall otherwise comply with the requirements of any such regulations.

67. Regulations

The Minister, in respect of labour health areas or any particular labour health area, may make regulations for-

- (a) the planning and layout of towns and villages;
- (b) the construction of streets, lanes, buildings, markets, open places, drains, latrines, incinerators, wells and tanks;
- (c) the provision of housing accommodation for workers, the provision of sanitary arrangements for, and the inspection of, that accommodation, and the limitation of the number of persons or class of persons who may reside in any house;
- (d) the supply of water, food and fuel;
- (e) the examination of workers by medical officers, that is to say, registered medical practitioners in the service of a public authority or other registered medical practitioners authorised as medical officers by the Minister for the purposes of this paragraph;
- (f) the measures to be taken to prevent the introduction or spreading of infectious and contagious diseases;
- (g) the compulsory employment of qualified medical practitioners by employers;
- (h) the compulsory erection and proper staffing, control and equipping of hospitals by employers and, in default thereof, the recovery from employers of the cost of medical attendance provided by the Federal Government and of the erection and maintenance of any hospitals erected by that government;
- (i) requiring employers to make arrangements with hospital authorities for the medical and surgical treatment of their workers (including, where necessary, accommodation and food in hospital) and to provide any necessary transport for sick or injured workers;
- (j) prescribing-
 - (i) the matters for which the arrangements mentioned in the preceding paragraph shall provide;
 - (ii) the officer by whom those arrangements are to be approved; and
 - (iii) the charges which may be made by the hospital authority and the period (not exceeding six weeks) for which the employer shall be liable for those charges;
- (k) the keeping of medical attendance registers;
- (l) the furnishing of returns of-
 - (i) the numbers of workers employed either above or below ground and the nature of their employment;
 - (ii) casualties by way of injury, disease or death; and
 - (iii) such other matters as the Minister may consider necessary to ensure that the health and welfare of workers are properly attended to;
- (m) prescribing fees to be paid for any matter or thing to be done under the regulations;
- (n) prescribing-
 - (i) penalties for offences under the regulations not exceeding a fine of ₦1,500 or imprisonment for a term of two years, or both; and

- (ii) additional penalties for continuing offences not exceeding in the aggregate a fine of ₦1,500 or imprisonment for a term of two years, or both; and
- (0) where any structure is built, renewed, reconstructed or altered in contravention of the regulations-
- (i) providing for the service of notice of the contravention on the offending person;
 - (ii) enabling a specified officer or authority, in default of remedial action being taken in consequence of the notice, to enter the relevant premises and take such remedial action as he considers necessary; and
 - (iii) providing for the recovery of any expenses incurred by the officer or authority in doing so.

Registration, employment exchanges, etc.

68. Registration of employers

(1) The Minister may make regulations for the registration of employers.

(2) Regulations made under this section may-

- (a) provide for the registration of employers (or specific classes of employers) generally or in specific areas to be prescribed in the regulations;
- (b) prescribe the manner of, and conditions for, registration and the person by whom and the manner in which the register is to be maintained;
- (c) prescribe the circumstances in which employers may be refused registration or struck off the register;
- (d) without prejudice to the generality of paragraph (c) of this subsection, provide for employers to be refused registration or to be struck off the register, as the case maybe, if they fail to comply with conditions specified in the regulations;
- (e) prohibit the employment of citizens as workers by unregistered employers;
- (f) impose penalties for contraventions of the regulations not exceeding a fine of ₦1,500 or imprisonment for a term of two years, or both; and
- (g) contain such incidental or related provisions as the Minister thinks necessary or expedient.

69. Labour schemes

(1) Where the Minister has agreed with the representatives of the employers' and workers' organisations within an industry or area as to the desirability of establishing a scheme for labour within that industry or area, he may make an order, if he thinks fit, in respect of the industry or area in question.

(2) Where an order is made under subsection (1) of this section in respect of an industry or area-

- (a) it shall be the duty of every employer who is engaged in the industry or ordinarily has a place of business in the area, as the case may be, to apply for reg-

istration in accordance with any regulations made under subsection (5) of this section;

- (b) every industrial worker under the age of 55 years who is employed in the industry or, as the case may be, is ordinarily resident in the area, shall be liable to compulsory registration under those regulations if an order is made in respect of him under paragraph (c) of this subsection;
- (c) the Minister may by order require any class or classes of industrial workers to whom paragraph (b) of this subsection applies to present themselves for registration in such manner, at such place and within such times as may be specified in the order; and
- (d) the Minister may by order forbid such employers as are mentioned in paragraph (a) of this subsection (or any specified class thereof)-
 - (i) to carry on business in the industry or area, as the case may be, unless they are registered accordingly; or
 - (ii) to employ industrial workers (or any specified class thereof) in the industry or area, as the case may be, unless the workers are registered accordingly.

(3) An authorised labour officer, where he is satisfied that an employer who has not applied for registration in pursuance of subsection (2) (a) of this section is a person who ought to have done so, may by notice in writing call upon the employer to apply accordingly.

(4) For the purposes of subsection (2) (b) of this section an industrial worker-

- (a) shall be presumed to be under the age of 55 years unless he satisfies an authorised labour officer to the contrary; and
- (b) if he is present in an area to which an order made under subsection (1) of this section applies, shall be presumed to be ordinarily resident in that area unless he satisfies an authorised labour officer that he is residing there for some temporary purpose only.

(5) The Minister may make regulations for the purposes of this section-

- (a) establishing offices for the registration of employers and industrial workers;
- (b) prescribing forms of application for registration and certificates of registration, and such other forms as may be needed for the purposes of the regulations;
- (c) providing for the issue of certificates of registration and their replacement if lost or destroyed;
- (d) prescribing the particulars to be furnished on application for registration and on registration;
- (e) prescribing the duties of registered persons and others in respect of certificates of registration; and
- (f) prescribing fees and providing generally for registration under this section.

70. Employment exchange

The Minister may make regulations-

- (a) authorising the establishment of registration offices, to be known as employment exchanges, at which industrial workers may attend for registration and make application for employment and to which employers may notify vacancies;
- (b) providing for the issue of certificates of registration and identity to registered industrial workers and the replacement, on payment of such fee as may be prescribed, of any such certificates when lost or destroyed;
- (c) prescribing the particulars to be furnished on registration;
- (d) providing for the taking of photographs and fingerprints of registered industrial workers as a means of identification;
- (e) regulating or restricting the numbers of registered industrial workers employed, either generally or in specified businesses or undertakings;
- (f) prescribing the duties of registered persons and others in respect of certificates of registration and identity;
- (g) requiring employers in such occupations as may be specified to furnish returns of such matters relating to the employment of workers as may be specified; and
- (h) prescribing fees to be charged under the regulations.

71. Fee-charging employment agencies

(1) No person shall establish or operate a fee-charging employment agency save with the written consent of the Minister.

(2) The Minister may make regulations providing for the supervision and control of fee-charging employment agencies and prescribing the scale of fees which they may charge.

(3) In this section, "**fee-charging employment agency**" means-

- (a) an agency conducted by any person who acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker to an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker; or
- (b) an agency for conducting the placing services of any company, institution, agency or other organisation which, although the agency is not conducted with a view to obtaining any pecuniary or other material advantage, levies from either employer or worker for those services an entrance fee, a periodical contribution or any other charge,

but excludes any organisation for the production of newspapers (or other publications) which are not produced wholly or mainly for the purpose of acting as intermediaries between employers and workers.

72. Offences

(1) Any person who with intent to deceive-

- (a) gives any false particulars for the purpose of section 69 (1) to (4) of this Act or any regulations made under section 69 (5) or 70 of this Act; or

- (b) forges a registration certificate of the kind provided for in any such regulations; or
- (c) uses a forged certificate of that kind; or
- (d) lends to or allows to be used by another person a certificate of that kind; or
- (e) makes or has in his possession any document so closely resembling a certificate of that kind as to be calculated to deceive; or
- (f) uses or displays a certificate of that kind which has not been issued to him, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦1,000 or to imprisonment for a term not exceeding one year, or to both.

(2) Any employer or industrial worker who contravenes section 69 (2) of this Act, any employer who fails to comply with a notice under section 69 (3) of this Act and any person who contravenes section 71 (1) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a term not exceeding six months, or to both:

Provided that, in any proceedings under this section for such a contravention or for a failure to comply with such a notice, it shall be a defence for the accused to prove that the contravention or failure was due to circumstances beyond his control.

(3) In any proceedings under this section in relation to an industry or area, it shall be presumed, until the contrary is proved, that the accused-

- (a) if he is an employer, is engaged in the industry or ordinarily has a place of business in the area, as the case may be; and
- (b) if he is an industrial worker, is under the age of fifty-five years and is engaged in the industry or ordinarily resident in the area, as the case may be.

Forced labour

73. Prohibition of forced labour

(1) Any person who requires any other person, or permits any other person to be required, to perform forced labour contrary to section 34 (1) (c) of the Constitution of the Federal Republic of Nigeria 1999, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦1,000 or to imprisonment for a term not exceeding two years, or to both.

[Cap. C23.]

(2) Any person who, being a public officer, puts any constraint upon the population under his charge or upon any members thereof to work for any private individual, association or company shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a term not exceeding six months, or to both.

74. Labour required in emergencies and for communal obligations

(1) The Minister may make regulations regulating the requisition of labour of the kind defined in section 34 (2) (c) and (d) and (e) (i) of the Constitution of the Federal Republic of Nigeria 1999 (that is to say, labour required in the event of any emergency or calamity threatening the life or wellbeing of the community, and labour that forms part of normal communal or other civil obligations).

[Cap. C23.]

(2) Regulations made under subsection (1) of this section-

(a) may specify for an offence under the regulations (including a failure or refusal, without reasonable cause, to render labour lawfully required thereunder) a fine not exceeding ₦200 or imprisonment for a period not exceeding six months, or both, and as a daily penalty a fine not exceeding ₦10 or imprisonment for a term not exceeding seven days, or both; and

(b) may add to, amend or repeal subsections (3) to (6) of this section.

(3) Subject to this section, the prescribed authority may require the inhabitants of any town or village subject to its jurisdiction to provide labour for any of the following purposes-

(a) the construction and maintenance of buildings used for communal purposes, including markets but excluding juju houses and places of worship;

(b) sanitary measures;

(c) the construction and maintenance of local roads and paths;

(d) the construction and maintenance of town or village fences;

(e) the construction and maintenance of communal wells; and

(f) other communal services of a similar kind in the direct interest of the inhabitants of the town or village.

(4) No labour shall be required under subsection (3) of this section unless-

(a) the inhabitants of the town or village or their direct representatives have been previously consulted by the prescribed authority with regard to the need for the proposed service; and

(b) a majority of the inhabitants or representatives, as the case may be, has agreed to the requiring of the labour.

(5) In subsections (3) and (4) of this section "town or village" excludes a township but includes any area (other than a township) declared by the Minister by order to be a town or village for the purposes of this section.

(6) Any person who does not wish to execute his share of any labour required under subsection (3) of this section may be excused from doing so on payment to the prescribed authority of such sum per day, while the labour is being done, as represents the current daily wage for unskilled labour.

(7) Nothing in this section shall be taken to authorise the exaction from any person of any work or service for which that person does not offer himself voluntarily where apart from this section the exaction of that work or service would be illegal.

PART IV

Supplemental

Records and returns

75. Records

(1) It shall be the duty of every employer to keep such records of wages and conditions of employment as are necessary to show that this Act is being complied with.

(2) Without prejudice to the generality of subsection (1) of this section, every employer shall keep in respect of each of his workers to whom a statement has been given under section 7 of this Act, a record showing-

- (a) the name and address of the worker;
- (b) his town (or other place) of origin;
- (c) the date of his birth;
- (d) the name and address of his next of kin;
- (e) the date and place of his engagement;
- (f) his Nigerian Social Insurance Trust Fund number; and
- (g) the date of cessation of employment.

(3) Records kept pursuant to subsections (1) and (2) of this section shall be retained for three years after the time to which they refer.

(4) Any employer who-

- (a) knowingly and with intent to avoid compliance with any provision of this Act, omits to keep any or any sufficient record of any particular wages or conditions of employment; or
- (b) fails to comply with subsection (2) or (3) of this section,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200.

76. Returns

(1) The Minister may require returns and statistics, whether periodical or otherwise, to be furnished by employers as to the number of persons employed by them in any particular class of employment and as to the rates of remuneration and other conditions in that or any other class of employment.

(2) Any employer who fails to furnish any returns or statistics which he is required to furnish under subsection (1) of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200.

Administration

77. Authorised labour officers

(1) The Minister may by writing under his hand authorise-

- (a) any public officer serving in a ministry or department for which the Minister is responsible; and
- (b) with the consent of the State Authority, any officer in the public service of a State,

to be an authorised labour officer for the purposes of this Act.

(2) An authorisation under subsection (1) of this section may-

- (a) as regards the officer authorised, be made by name or by office;

(b) relate to the whole of the Federation or any specified part or parts thereof; and

(c) relate to the whole of this Act or any specified provision or provisions thereof.

(3) No authorised labour officer, except in so far as is necessary for the purposes of

a complaint or prosecution under this Act, shall publish or disclose to any person the details of any manufacturing, commercial or working process which may come to his knowledge in the course of his duties.

(4) An authorised labour officer shall treat as absolutely confidential the source of any complaint alleging a contravention of this Act, and where he visits an employer's premises in consequence of such a complaint, shall give no indication to the employer or the employer's representative that the visit was made in consequence of the complaint.

78. Powers of authorised labour officers

(1) In addition to any other powers conferred by this Act, an authorised labour officer may for the purpose of facilitating or ensuring the proper operation of this Act-

(a) enter, inspect and examine by day or night any labour encampment, farm, factory or other land or workplace whatsoever (and every part thereof) if he has reasonable cause to believe that any worker is employed therein or thereon;

(b) enter, inspect and examine by day any premises provided by an employer in which he has reasonable cause to believe that workers are living;

(c) enter, inspect and examine any hospital building, sanitary convenience, mess-room or water supply provided for or used by workers;

(d) take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his functions;

(e) require the production of any registers, certificates, notices or other documents kept in pursuance of this Act and inspect, examine and copy any of them;

(f) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act are being complied with, so far as respects any labour encampment, farm, factory or other land or workplace whatsoever and any person employed therein or thereon;

(g) inspect and examine all food provided for the use of workers and take samples thereof, so however that-

(i) any sample taken in pursuance of this paragraph shall be taken in duplicate in the presence of the employer of the workers (or, if the employer is not readily available, in the presence of a foreman or other responsible person) and shall be labelled and sealed in the presence of the employer, foreman or other responsible person; and

(ii) one sample so labelled and sealed shall be left with the employer, foreman or other responsible person;

(h) take or remove for the purpose of analysis samples of materials and substances used or handled by workers from premises not covered by the Factories Act, subject to the employer or his representative being notified and given an opportunity to be present when the samples are taken;

[Cap. F1.]

- (i) interrogate, either alone or in the presence of another person as he thinks fit, with respect to matters to which this Act relates, any person whom he finds in or on any labour encampment, farm, factory or other workplace whatsoever or whom he has reasonable cause to believe to have been within the preceding three months employed in or on any labour encampment, farm, factory or other land or workplace whatsoever, so however that no person shall be forced to answer any question tending to incriminate himself;
- (j) with the consent in writing of the Minister and subject to any powers conferred by the Constitution of the Federal Republic of Nigeria 1999 on the Attorney-General or Director of Public Prosecutions of the Federation or a State, prosecute, conduct or defend before a magistrate's court, a district court or a court given jurisdiction under section 80 (2) of this Act in his own name (or, where he is acting under section 83 (5) of this Act, in the name of the complainant) any complaint or other proceeding arising under this Act or otherwise in the exercise of his functions as an authorised labour officer;

[Cap. C23.]

- (k) direct any person who has in his opinion contravened any provision of this Act, to remedy the contravention within a specified and reasonable period; and
- (l) direct the posting of a notice in any premises if he is satisfied that it is necessary or expedient for the proper implementation of this Act.

(2) Any person directed to take remedial action under subsection (1) (k) of this section may, if he is dissatisfied with the direction, within fourteen days or within any period stated in the direction, whichever is the less, appeal in writing to the Minister, who may refer the case for advice to any person or persons considered by him to be suitable and whose decision shall be final.

(3) Any person who-

- (a) obstructs an authorised labour officer in the exercise of his functions under this section or any other provision of this Act; or
- (b) fails to comply with a direction under subsection (1) (k) of this section (no appeal having been made under subsection (2) of this section or any such appeal having been disposed of); or
- (c) fails to comply with a direction under subsection (1) (l) of this section,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦1,000 or to imprisonment for a period not exceeding two years, or to both.

79. Delegation of functions

(1) Subject to this section, the Minister may delegate any of his functions under this Act-

- (a) to a public officer serving in a ministry or department for which the Minister is responsible; or

(b) as regards a State, to the Commissioner in the government of the State responsible for labour matters or, with the consent of the State Authority, to an officer in the public service of the State.

(2) Subsection (1) of this section does not apply to the power of delegation conferred by that subsection or to any power to make regulations or orders.

(3) A delegation under subsection (1) of this section may be made subject to such conditions and limitations, if any, as the Minister thinks fit.

(4) The delegation of a function under subsection (1) of this section shall not prevent the Minister from continuing to exercise the function himself if he sees fit.

Settlement of disputes

80. Jurisdiction

(1) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have jurisdiction to hear complaints under section 81 of this Act.

(2) Without prejudice to the jurisdiction to hear complaints conferred by subsection (1) of this section, the Chief Judge of a State, with the concurrence of the State Authority, may by order confer jurisdiction to hear such complaints on area courts or customary courts in the State or part of the State.

81. Labour complaints

(1) Where-

(a) an employer or worker neglects or refuses to fulfil a contract; or

(b) any question, difference or dispute arises as to the rights or liabilities of a party to a contract or touching any misconduct, neglect, ill-treatment or injury to the person or property of a party to a contract,

any party to the contract feeling himself aggrieved may make complaint to a court having jurisdiction, which may thereupon issue a summons to the party complained against (the aggrieved party, the court, the party complained against and the complaint being hereafter in this section and in sections 82 to 85 of this Act referred to as "the complainant", "the court", "the respondent" and "the complaint" respectively).

(2) If the complainant claims an amount beyond the civil jurisdiction of the court, the court shall forward the complaint to the nearest court having jurisdiction.

(3) The court may exercise jurisdiction in the complaint if the respondent is in its area of jurisdiction at the time the complaint is made, whether or not the grounds of the complaint arose within that area.

(4) If at any time after the laying of the complaint it appears to the court by information on oath that the respondent is about to abscond, the court may cause him to be arrested and detained in custody unless he finds security to appear and answer the complaint and to abide by the decision of the court thereon.

(5) Where the court is of the opinion that the complaint could more properly or conveniently be dealt with by civil proceedings, it may, at any time before giving its final decision on the complaint, order that the remedy, if any, for the matters complained of shall be by an action brought in accordance with the law relating to civil proceedings and not by proceedings under this section.

(6) This section shall not apply to a trade dispute, that is to say, any dispute or difference between employers and workers (or between workers and other workers) connected with-

- (a) the employment or non-employment; or
- (b) the terms of the employment; or
- (c) the conditions of labour,

of any person.

82. Powers of the court

(1) In dealing with the complaint, the court-

- (a) may adjust and set off one against the other all such claims on the part of the complainant and the respondent arising out of or incidental to the relationship between them as the court may find to be subsisting, whether the claims are liquidated or unliquidated or for wages, damages or otherwise, and may direct the payment of such sum as it finds due by one party to the other;
- (b) may direct fulfilment of the relevant contract and, in a case where damages might be awarded for any breach of contract, may in place of the whole or part of the damages which would otherwise have been awarded direct the party committing the breach to give security to the satisfaction of the court for the due performance of so much of the contract as remains unperformed;
- (c) if the party receiving a direction under paragraph (b) of this subsection fails to find security and the court is satisfied that the failure is not due to the inability of that party to find it, may commit him to prison (for a period not exceeding three months) until he finds it;
- (d) may rescind the contract upon such terms as to apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as it thinks just; and
- (e) where the court has criminal jurisdiction and it appears to the court that an employer or worker has been guilty of an offence under this Act, may in place of or in addition to exercising any of the powers conferred by paragraphs (a) to (d) of this subsection pass on the offender any sentence which is authorised by this Act and is within its criminal jurisdiction.

(2) Without prejudice to any other method of giving security which the court may consider appropriate in any particular case, a person may give security for the purposes of

subsection (1) (b) of this section by making in or under the direction of the court a written or oral acknowledgement (to be known as a "recognisance") of the undertaking or condition by which and the sum in which he is bound; and any such recognisance shall be made as nearly as possible in the same way as recognisances of bail and shall be liable to be forfeited and enforced in the same way as recognisances of bail.

83. Procedure

(1) Subject to this section and the other provisions of sections 81, 82, 84 and 85 of this Act, the law regulating the procedure in criminal cases (including the law respecting appeals, revisions and the levying of moneys ordered to be paid) shall apply to the complaint and any orders for the payment of money made in consequence of the complaint, so however that-

- (a) the court may order that the law regulating civil proceedings shall apply to the complaint and any such orders if in any case it considers that the interests of justice so require; and
- (b) the law regulating civil proceedings shall so apply if the court has no criminal jurisdiction.

(2) Where in consequence of the complaint the court makes an order for the payment of any sum by a public authority, no execution shall be issued, but the court shall forward a copy of the order-

- (a) if the public authority is the Federal Government, to the Minister for Finance;
- (b) if the public authority is a State Government, to the Commissioner for Finance of that State; and
- (c) in any other case, to the public authority concerned,

and it shall thereupon be the duty of the Minister, person or public authority in question to ensure that the amount in the order is paid by the proper officer or department.

(3) The respondent, if immediately before the hearing of the complaint he is not in actual custody, shall not be compelled to enter the dock or other place usually assigned for persons under trial on a criminal charge or be otherwise treated as under arrest during the hearing of the complaint:

Provided that the court may cause the respondent to be arrested and detained in custody if it is satisfied that it is necessary to do so in order to secure the attendance of the respondent.

(4) At the hearing of the complaint the respondent shall be a competent but not a compellable witness.

(5) At the request of the complainant, an authorised labour officer who is entitled to act under section 78 (1) (j) of this Act may represent the complainant at the hearing of the complaint.

84. Compensation, and provision of food

(1) Where the court-

- (a) imposes any fine; or
- (b) directs security by way of deposit to be given; or
- (c) enforces payment of any sum secured by a recognisance,

it may direct that the fine, deposit or sum when recovered (or such part thereof as it thinks fit) shall be applied to compensate any employer or worker for wrong or damage sustained by him by reason of the act or thing in respect of which the fine was imposed or by reason of the non-performance of the relevant contract.

(2) Where it appears to the court that the complainant (being a worker) has not the means and is otherwise unable to obtain food for himself pending the determination of the complaint, it may, subject to subsection (3) of this section, cause the complainant to be supplied with necessary food at the expense of the Federal Government.

(3) Where food is supplied to the complainant under subsection (2) of this section, the cost of the food shall be a debt due to the Federal Government from the complainant and may be deducted by the court from any moneys received by the court for or on behalf of the complainant, or shall otherwise be paid by the complainant.

85. Costs

(1) Subject to this section, the process of the court for compelling the attendance of the respondent and all necessary witnesses shall be instituted at the expense of the Federal Government and without any fees of court.

(2) At the final determination of the complaint the court may make such order for the payment of costs by either party as it thinks proper in the circumstances.

(3) If at the hearing of the complaint, the court is of the opinion that the complaint is vexatious or frivolous it may, there and then and without any fresh action or proceeding, order that the complainant shall-

- (a) pay a fine not exceeding ~~₹~~50 and defray the cost of the process and the witnesses; and
- (b) in default of payment of the fine and costs, be liable to imprisonment for a term not exceeding one month.

Miscellaneous

86. Application to public authorities

The provisions of this Act, other than the penal provisions, shall apply to and be carried into effect by public authorities:

Provided that, in times of national emergency and in any other case where he is satisfied that it is in the public interest to do so, the Minister may by order exempt any public authority from all or any of the provisions of this Act for such a period as may be specified in the order.

87. Contracts made abroad

(1) Subject to this section, nothing in this Act shall prevent any employer, worker or other person to whom this Act applies from enforcing his rights or remedies in respect of any breach or non-performance of any lawful contract made outside Nigeria, and the rights of the parties under such a contract (both against each other and against third parties invading those rights) may be enforced in the same manner as other rights arising outside Nigeria may be enforced and as if this Act had not been made.

(2) Whenever a contract made outside Nigeria has been executed in conformity with this Act, it shall be enforced in the same manner as a contract entered into under this Act.

(3) A written contract made outside Nigeria which has been executed otherwise than in conformity with this Act shall not be enforced against a worker to whom this Act applies if he is unable to read and understand the language in which the contract is written.

(4) For the purposes of this section, a contract shall be deemed to be executed in conformity with this Act if it is signed by the names or marks of the parties and bears an attestation to the effect that the contract was read over and explained to the parties in the presence of the person attesting and was entered into by the parties voluntarily and with full understanding of its meaning and effect.

(5) The attestation referred to in subsection (4) of this section may be made by any Nigerian official entitled to act under section 12 of the Oaths Act or by any judicial or

other authority authorised by the law of the place where the contract was made to exercise the functions of a notary public or equivalent functions.

[Cap. O1.]

88. Regulations

(1) The Minister may make regulations-

- (a) providing for the payment of compensation by employers to workers or domestic servants for injury arising out of and in the course of their employment in cases not coming within the provisions of any other enactment, and for the recovery of the compensation in question;
- (b) requiring employers to report any accident involving the death of or injury to a worker or domestic servant, in cases not coming within the provisions of any other enactment;
- (c) prescribing the conditions under which carriers may be employed and the limitation of loads to be carried by them;
- (d) imposing upon persons who have accepted the services of any worker or domestic servant without paying wages therefor the obligation to provide for the maintenance of the worker or domestic servant during sickness or in old age;
- (e) prescribing anything which is to be prescribed under this Act and is not otherwise provided for;
- (f) prescribing fees to be paid for any matter or thing to be done under this Act; and

(g) containing such procedural or ancillary provisions as he considers necessary or convenient to facilitate the operation of this Act.

(2) Regulations made under subsection (1) of this section may specify for an offence under the regulations a fine not exceeding ₦500 or imprisonment for a term not exceeding one year, or both.

89. Savings and exemptions

(1) Nothing in this Act shall-

- (a) operate to relieve any employer or worker of any duty or liability imposed upon him by any other enactment or to limit any power given to any public officer by any such enactment; or
- (b) prevent any employer, worker or other person to whom this Act applies from being proceeded against according to law for any offence punishable under any law in force in Nigeria, so however that no person shall be punished twice for the same offence.

(2) Nothing in this Act shall apply to serving members of the Armed Forces of the Federation or the Nigeria Police Force.

(3) The Minister, with the prior approval of the President, may by order exempt (subject to such conditions, if any, as he sees fit to impose) any class or classes of workers from the application of this Act or any specified provision thereof.

90. Repeal, and transitional and saving provisions

(1) The Labour Code Act is hereby repealed.
[Cap. 91 of 1958 Edition.]

(2) The transitional and saving provisions in the Schedule to this Act (including any provisions made under paragraph 5 of that Schedule) shall have effect notwithstanding subsection (1) of this section or any other provision of this Act.
[Schedule.]

91. Interpretation

(1) In this Act, unless the context otherwise requires-

"administrative officer" means a divisional officer, a district officer or any officer exercising corresponding functions;

"agricultural undertaking" means any undertaking in which a worker is employed under a contract of employment for the purpose of agriculture, fisheries, horticulture, silviculture, the tending of domestic animals and poultry or the collection of the produce of

any plants or trees, but does not include any such undertaking in which only members of the same family are employed;

"authorised labour officer" means an authorised labour officer authorised under section 77 of this Act;

"citizen" means citizen of Nigeria;

"chief or other indigenous authority" includes any chief or indigenous authority whose authority is customary or traditional;

"child" means a young person under the age of twelve years;

"collective agreement" means an agreement in writing regarding working conditions and terms of employment concluded between-

- (a) an organisation of workers or an organisation representing workers (or an association of such organisations) of the one part; and
- (b) an organisation of employers or an organisation representing employers (or an association of such organisations) of the other part;

"collective bargaining" means the process of arriving or attempting to arrive at a collective agreement;

"contract" means contract of employment, and includes a contract of apprenticeship;

"contract of employment" means any agreement, whether oral or written, express or implied, whereby one person agrees to employ another as a worker and that other person agrees to serve the employer as a worker;

"domestic servant" means any house, stable or garden servant employed in or in connection with the domestic services of any private dwelling house, and includes a servant employed as the driver of a privately owned or privately used motor car;

"employer" means any person who has entered into a contract of employment to employ any other person as a worker either for himself or for the service of any other person, and includes the agent, manager or factor of that first-mentioned person and the personal representatives of a deceased employer;

"employer's permit" means an employer's permit granted under section 24 of this Act;

"family" has the same meaning as in the First Schedule to the Workmen's Compensation Act;

(Cap. W6.)

"foreign contract" means a contract for the employment of a citizen outside Nigeria;

"function" includes power and duty;

"guardian" includes any person to whose care a young person has been committed (even temporarily) by a person having authority over the young person, and any person

lawfully having charge of a young person who has no parents or whose parents are unknown;

"industrial undertaking" includes-

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including shipbuilding and the generation and transformation of electricity or motive power of any kind;
- (c) the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraph or telephonic installation, electrical undertaking, gasworks, waterworks, or other works of construction, as well as the preparation for or the laying of the foundation of any such work or structure; and
- (d) transport of passengers or goods by road, rail, air, sea or inland waterways, including the handling of goods at docks, quays, wharves, warehouses and airports, and including the carrying of coal or other materials by hand to or from lighters or ships,

but does not include any commercial or agricultural undertaking, any undertaking in which only members of the same family are employed or any customary occupation of a kind normally carried on at home;

"industrial worker" includes any artificer, journeyman, handicraftsman, canoeman, carrier, messenger, clerk, shop assistant, storekeeper, labourer, agricultural labourer, hotel

or catering worker or apprentice and any person or class of persons gainfully employed or normally seeking a livelihood by gainful employment declared to be such by the Minister by order;

"industry" includes trade;

"labour health area" means a labour health area declared under section 66 of this Act;

"local government" means a local government authority, the local authority of a township or any council or other authority (however styled) exercising statutory or customary powers of local administration in a State;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining is carried on;

"Minister" means the Federal Minister for Employment, Labour and Productivity;

"public authority" means-

- (a) the Federal Government; or
- (b) a State Government; or
- (c) a local government authority; or

(d) a statutory corporation, that is to say, a body corporate directly established by law in Nigeria, being a body which is expressly bound by law to comply with directions given by a Minister or by a corresponding authority; or

(e) a government-controlled company, that is to say, a limited liability company incorporated in Nigeria in which the Federal Government or a State Government has a controlling interest;

"public department" means a ministry or department of a public authority;

"public officer" means any person employed by a public authority;

"recruiter" means the holder of a recruiter's licence;

"recruiter's licence" means a recruiter's licence granted under section 25 of this Act;

"recruiting" includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment, at a public emigration or employment office or at an office conducted by an employer's association and supervised by the Minister;

"State" means a State of the Federation;

"State Authority" means the Governor or Administrator of a State;

"wages" means remuneration or earnings (however designated or calculated) capable of being expressed in terms of money and fixed by mutual agreement or by law which are

payable by virtue of a contract by an employer to a worker for work done or to be done or for services rendered or to be rendered;

"woman" means any member of the female sex, whatever her age or status;

"worker" means any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and whether it is a contract of service or a contract personally to execute any work or labour, but does not include-

(a) any person employed otherwise than for the purposes of the employer's business; or

(b) persons exercising administrative, executive, technical or professional functions as public officers or otherwise; or

(c) members of the employer's family; or

(d) representatives, agents and commercial travellers in so far as their work is carried on outside the permanent workplace of the employer's establishment; or

(a) any person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or the material; or

(b) any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply;

"**young person**" means a person under the age of eighteen years.

(2) In this Act, unless the context otherwise requires, a reference to a numbered Part or section is a reference to the Part or section so numbered in this Act.

92. Short title

This Act may be cited as the Labour Act.

SCHEDULE [Section 90.]

Transitional and saving provisions

1. Permits and licences granted under sections 65 and 70 respectively of the repealed Act shall, if they were in force immediately prior to the commencement of this Act, continue in force on the same terms and conditions but shall be subject to this Act; and accordingly no such term or condition shall prevail against any provision of this Act.
2. Contracts of employment which were in force immediately prior to the commencement of this Act shall remain in force on the same terms and conditions, but shall be subject to this Act; and no such term or condition shall prevail against any provision of this Act unless an authorised labour officer on the application of a party to the contract in question decides that the interests of the parties or the circumstances of the case require that the term or condition in question shall so prevail.
3. Where a fee-charging employment agency was in operation immediately before the commencement of this Act, section 71 (1) of this Act shall not apply to the agency-
 - (a) for a period of ninety days (or such longer period as the Minister may allow) after the commencement of this Act; or
 - (b) if the person operating the agency applies within that period for the Minister's consent under the said section 71 (1) of this Act until the application has been disposed of.
4. Any subsidiary legislation made or deemed to have been made under the repealed Act which was in force immediately before the commencement of this Act shall remain in force, subject to any necessary modifications, as if it has been made under this Act, and may be added to, amended, revoked or varied accordingly.
5. Within the twelve months following the commencement of this Act, the Minister may by order make any further transitional or saving provisions (not inconsistent with this Schedule) which appear to him to be necessary or desirable.
6. In this Schedule "**the repealed Act**" means the Labour Code Act repealed by section 90 (1) of this Act.

[Cap. 91 of 1958 Edition.]

LABOUR ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Labour Regulations.
2. Dock Labour (Registration and Control of Employment) Rules.
3. Dock Labour (Registration and Control of Employment) Rules (Application) Declaration.

LABOUR REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

General provisions

PART II

Special provisions applicable to labourers' contracts for service in Nigeria

PART III

Special regulations for labour health areas

PART IV

Carriers

PART V

Forms and penalties

SCHEDULE

LABOUR REGULATIONS

[L.N. 38 of 1936.]

under section 88

PART I

General provisions

1. Short title

These regulations may be cited as the Labour Regulations.

[Regulations 6 of 1929*. 36 of 1933. 22 of 1936. 5 of 1938. 21 of 1942. 49 of 1944.
Order 47 of 1951. L.N. 131 of 1954. 1 of 1955.]

2. Interpretation

In these Regulations unless the context otherwise requires-

"**inspector of labour**" includes all inspectors of mines;

"**medical officer**" includes every registered medical practitioner in the service of the Government, whether in the medical or sanitary branch of the service.

3. Every contract required by the Act to be in writing (other than a deed of apprenticeship) shall be in Form A or B in the Schedule of these Regulations or to the like effect and if the employed or any of them is illiterate, it shall bear attestation in the form given.

[Schedule. Forms A and B.]

4. (1) The employer under a deed of apprenticeship shall give to the apprentice who has served his apprenticeship, a certificate of proficiency according to the ability of the apprentice.

[5 of 1938.]

(2) If an employer shall refuse to give such certificate the apprentice may appeal to a Governor or the Minister and if the Governor or the Minister (as the case may be) thinks fit, he may cause the apprentice to be examined by a qualified person.

[38 of 1936.]

(3) If the person conducting such examination shall consider that the apprentice is deserving of a certificate of proficiency he may give him such certificate, and in such case the employer shall pay to the Government such sum to cover the expenses of and in connection with the examination (including the fees paid to the examiner) as the Governor or the Minister (as the case may be) may direct.

5. No person shall demand or accept from a recruited servant any payment as a reward for obtaining employment for the servant except with the consent of a Governor or the Minister.

6. No contract under which a servant has engaged to repay to his employer the whole or any part of any payment which the employer has made or has agreed to make in connection with recruiting of such servant shall be enforceable against the servant in any court.

7. Wages shall be paid to the employee personally without any deduction whatsoever, except as may be specifically authorised by the contract under which the wages are payable or as may be authorised by law.

8. In the case of the death of an employee the employer shall send any wages which have been earned by the employee to the nearest magistrate to be paid by him to such person as may be entitled thereto.

9. (1) Wages payable under a contract of service, not being a contract to perform some specific work without reference to time or a contract under which wages are payable for piece-work, shall be payable at a daily, weekly or monthly rate.

(2) When wages are payable at a weekly or monthly rate the servant shall, in the absence of any agreement to the contrary, be deemed to have contracted to work for his employer for six days out of every seven during the period of his engagement and shall be entitled to receive the full wages, subject only to any lawful deduction, for each week or month during which he shall so work:

Provided, however, that crews of vessels and ratings serving afloat and servants employed in any domestic or personal service or having the charge or care of any animal shall on each day of the week or month perform such duties as may be required of them by their employers.

10. All wages, whether payable at a daily, weekly or monthly rate or payable for piece work shall, in the absence of any written agreement to the contrary, be paid not later than eight days after they become due at such intervals not being longer than one month as may be agreed between the employer and the servant.

11. Save in the case of a contract under sections 36 to 44 of the Act, an employer may make deduction from wages to the extent and in the cases following-

- (a) when wages are payable at a daily rate and are not payable daily, the employer may deduct one day's wage for each day on which the servant is absent from work when the employer is ready and willing to employ him;
- (b) when wages are payable at a weekly rate, the employer may deduct one sixth of the weekly wage for each day on which the servant is absent from work and on which he is under an obligation to work;
- (c) when wages are payable at a monthly rate, the employer may deduct one twenty-seventh of the monthly wage for each day on which the servant is absent from work and on which he is under an obligation to work.

PART II

Special provisions applicable to labourers' contracts for service in Nigeria

12. (1) This Part of these Regulations shall apply only to labourers' contracts for service within Nigeria.

(2) Regulations 13 to 17 (inclusive) and 28 of these Regulations shall not apply to any Nigerian engaged for service in any capacity afloat.

13. Every employer shall furnish to each labourer in his employment under a contract required by the Act to be in writing who is not paid daily, on first engagement and thereafter on the first day of each month, an attendance book in Form F in the Schedule to these Regulations.

14. Every such labourer shall be instructed by his employer to produce his attendance book on every day on which he shall attend for work, and it shall be the duty of the employer or his agent to indicate in such book, every day on which the labourer shall have worked.

15. Whenever any wages are paid to any such labourer it shall be the duty of the employer or his agent paying the same to enter in the labourer's attendance book, which the labourer shall be required to produce for the purpose, the particulars required to be shown in respect of such payment and to sign the entry, and to return the book to the labourer.

16. Every employer of labourers (whether under written contract or not) shall keep a daily record of the attendances of and payments made to each labourer employed by him and shall produce the same to a magistrate on demand made at any time within six months of the last entry therein.

17. A magistrate may at any time inspect any such record and any attendance book furnished under regulation 13 of these Regulations and upon any such inspection, it shall be his duty to satisfy himself that all deductions of wages shown are authorised and proper.

18. If a labourer employed under written contract shall desire to send any portion of his wages to his relatives, the employer shall transmit the same, as requested by the labourer, either directly or through a magistrate.

19. No claims by an employer against a labourer for or on account of advances made or goods supplied by the employer during the period of the contract or service between the employer and the labourer shall be enforceable in any court after the expiration of such contract.

20. In the matter of housing accommodation and the sanitary condition of any labourers' camp or quarters the employer shall comply with all reasonable directions of an administrative or medical officer in charge of the district.

21. When housing accommodation is provided by the employer, means of obtaining food, water and fuel must be afforded within a reasonable distance from the camp or quarters.

22. Every employer shall, by arrangements made with the person in control of the nearest or most convenient local government council or other hospital, provide for the medical and surgical treatment of his labourers; if the labourers are engaged on work in the Federal Capital Territory, Abuja, by the Minister or if they are engaged on work in any State, by the State Commissioner charged with responsibility for labour, and shall provide-

[36 of 1933. 49 of 1944. Order 47 of 1951. L.N. 131 of 1954.]

- (a) for the necessary hospital and dispensary accommodation and treatment for the labourers of such employer, which treatment shall include, where necessary, in addition to in-patient and out-patient treatment at the hospital, out-patient treatment at the place where such labourers are employed;
- (b) (i) for the fees to be charged by the hospital authority in respect of such

hospital and dispensary accommodation and treatment and their payment by the employer, provided always that such employer shall not be liable for the payment of such fees to the hospital authority in excess of a period of six weeks from the commencement of such treatment or a period equal to the period during which the labourer receiving treatment has been employed by such employer, whichever period may be the lesser, or, in the alternative;

- (ii) for an annual capitation fee to be charged by the hospital authority in place of the fees referred to in sub-paragraph (i) of paragraph (b) of this regulation;

[9 - Vol. VIII]

- (b) for the payment by the employer to the hospital authority in respect of hospital diet supplied by such authority to in-patient labourers at a rate not less than the current rate for hospital pauper diets for a period of six weeks from the commencement of incapacity or a period equal to the period during which the labourer incapacitated as aforesaid has been employed by such employer, whichever period may be the lesser:

Provided that where an annual capitation fee is charged under the provisions of sub-paragraph (ii) of paragraph (b) of this regulation, such capitation fee shall include payments by an employer in respect of hospital diet supplied to in-patient labourers and accordingly the provisions of this paragraph shall not apply; and

- (d) for the provision of suitable transport for sick and injured labourers from the place of their work or their homes, as the case may be, to the hospital or appropriate treatment centre. of

23. Every employer shall be responsible for the care and supervision, and for the proper feeding to the satisfaction of the medical officer, of his sick and injured labourers until such time as they are formally received and accepted as in-patients by a hospital authority.

[23 of 1933.]

24. Notwithstanding the provisions of regulation 22 of these Regulations, any employer may, if he so desires, and shall, if the State Director of Medical Services considers that such provision is necessary, provide one or more hospitals and dispensaries for the accommodation and treatment of his sick and injured labourers:

Provided always that-

- (a) such provision shall be in accordance with and conform to the requirements of hospitals in labour health areas; and

[36 of 1933. Order 47 of 1951. L.N. 131 of 1954.]

- (b) such provision, in addition to the approval of the State Director of Medical Services in so far as the same is required, shall, if the place where the labourers work is situate in the Federal Capital Territory, Abuja, require the approval of the Minister, or if the place is situate in any State, that of the State Commissioner charged with responsibility for Labour.

25. Regulations 20, 21, 22, 23 and 24 of these Regulations shall not apply in a labour health area.

[36 of 1933.]

26. Save where agreement is made to the contrary, no deduction shall be made from the wages of a labourer for housing, fuel, medicine or medical attendance provided or paid for by the employer.

27. (1) When the employer has agreed to supply the labourer with food, the food supplied shall not be less than the following scale-

[36 of 1933.]

- (a) 5.44 kilograms of grain (including rice) per week; and
- (b) 0.907 kilograms of beans or groundnuts per week; and
- (c) 170 grams of salt (or 56.7 grams of salt and 0.907 kilograms of green rood per week), exclusive of chaff, stalk or shell that may be given together with the grain, beans or groundnut kernels; also other rations may be supplied; provided that the diet shall not be of less nutritive value than the diet prescribed in the above scale.

(2) The rations supplied shall, as far as possible, be in accordance with the food to which the labourer is accustomed, and the employer shall comply with all reasonable directions of a medical officer with regard to the quantity and kind of ration to be supplied.

28. (1) No labourer shall be required to work for more than ten hours a day, and every labourer shall be allowed to break off work for two hours during the day, and also adequate time to obtain fuel and prepare his food in the evening.

(2) This regulation does not apply to piece-workers, labourers employed on coaling a vessel, or night watchmen.

29. On the expiration of the contract of service, or when the labourer is unable by reason of illness to complete his service, the employer shall-

- (a) if the labourer has been brought to the place of employment by ship or railway at the cost of the employer, provide the labourer with a return passage or fare to the place of engagement; or
- (b) if otherwise brought by the employer or his agent to the place of employment, provide him with subsistence at the rate of five kobo *per diem* for the time during which the labourer would take to reach the place from which he has been brought, travelling eighteen miles *per diem*:

Provided that a labourer who is unable to complete his service by reason of illness shall not be returned to the place from which he has been brought until a medical officer has certified that he is fit to travel.

30. (1) An employer shall report without delay to the nearest magistrate any accident involving the death of or injury to any labourer who is not a workman within the meaning

of the Workmen's Compensation Act nor a person to whom the provisions of any other Act respecting compensation for such death or injury apply.

[21 of 1942. Cap. W6.]

(2) Upon receipt of such report the magistrate shall hold an inquiry and if the injury is one resulting in death, or which incapacitates such labourer for a period of at least one week from earning full wages at the work at which he was engaged, or which results in total or partial incapacity from earning his living, the magistrate shall award to such labourer or to his dependants or anyone or more of such dependants such sum as he may deem just.

(3) Where it is proved that the injury to such labourer is attributable to his serious and wilful misconduct, compensation shall be disallowed:

Provided that where the injury results in death or serious and permanent incapacity the magistrate, on a consideration of all the circumstances, may award such compensation as he may deem just.

(4) Where a magistrate makes an award under the provisions of this regulation, he may order the amount so awarded to be paid in one lump sum or by instalments payable at such periods as he may think fit; or may order, in the sole discretion of any person named in such order, that the sum awarded be expended for the benefit of such labourer or of such dependants of such labourer as the magistrate may decide.

(5) Where a magistrate makes an award under the provisions of this regulation, he may order, in addition to any such award, that the employer shall pay all reasonable medical and hospital expenses incurred by a labourer in treatment of the injury.

(6) Where a sum is due upon any award made under this regulation, the labourer to whom such sum is due or the dependant entitled thereto may recover such sum by process of law as if the award under which such sum is due were a judgment of the court of the magistrate who made the award.

(7) Nothing in this regulation contained shall affect the civil liability of the employer under any other law unless compensation is paid under this regulation.

31. (1) Any person aggrieved by the decision of a magistrate holding an inquiry under the provisions of regulation 30 of these Regulations may appeal to a Judge of the High Court within whose area of jurisdiction the accident occurred by giving notice of appeal to the appropriate court within fourteen days of the date of such decision.

[21 of 1942. L.N. I of 1955.]

(2) The decision of such Judge shall be final.

[21 of 1942.]

32. For the purposes of regulations 30 and 31 of these Regulations "**partial incapacity**", "**total incapacity**" and "**dependants**" shall have the same meaning as in the Workmen's Compensation Act as from time to time amended.

[Cap. W6. 21 of 1942.]

33. Any administrative officer, medical officer, sanitary superintendent or inspector of labour may for the purposes of these Regulations at any time enter upon any land or into

any building where any labourer is employed or housed, and may put questions concerning such labourers to their employer or to any person who may be in charge of them, or to the labourers themselves, and the employer or such person, or any such labourer, shall answer any such questions truly to the best of his ability.

[21 of 1942.]

PART III

Special regulations for labour health areas

Regulations 34-43

[The regulations in this Part (which were made under section 62 (9) of Act No. 1 of 1929) remain in force until replaced by regulations made under this Act (section 6 of the Interpretation Act, Cap. 123). They have already been replaced for the Northern States by Regulations 14 of 1948 (*supra*); and are expected to be replaced for the other States at an early date. They are accordingly not here reproduced; but the numbering in the 1948 edition of the subsequent Parts and Regulations has been retained.]

PART IV

Carriers

44. In this Part "**a carrier**" means a person employed to carry a load on a journey, but does not include a mail runner.

45. A carrier shall not be required to carry a load in excess of 65 pounds including food issued to and carried by him.

46. (1) If a carrier falls sick on the journey he may be left in a village.

(2) The employer or his agent shall make adequate provision for the subsistence of such carrier, and shall satisfy himself that he will be properly tended and his life safe.

(3) If the carrier is too ill to walk he shall be carried to a village at which he can be safely left having regard to the requirement of this regulation.

(4) Whenever a carrier shall have been left in a village as aforesaid the employer or his agent shall without unnecessary delay inform the secretary to the local government council.

PART V

Forms and penalties

47. The forms set out in the Schedule to these Regulations or forms to the like effect shall be used for the matters to which they are applicable.

[Schedule.]

48. Any person who shall fail to comply with or shall commit any breach of any of these Regulations or of any order or direction lawfully given thereunder shall be guilty of an offence and shall, if no other penalty is prescribed for the offence, be liable for a first offence to a fine of twenty naira, and for a second offence to a fine of fifty naira or imprisonment for one month or both:

Provided the maximum penalty imposed on an offender at one and the same time under this regulation shall not exceed a fine of one hundred naira or imprisonment for six months or both.

SCHEDULE

FORM A

[Regulations 3 and 47.]

Contract of Service (General)

MEMORANDUM OF AGREEMENT made this day of, 20, between of(hereinafter called the employer) of the one part and each of the parties whose names are set out in the first column of the Schedule below (hereinafter called the employed) of the other part, whereby it is agreed as follows-

1. Each of the employed agrees to serve the employer atin the capacity set out in the second column of the said Schedule opposite the name of the employed for the period of to be computed from the day of20

2. The employer agrees to pay to each of the employed wages at the rate set out in the third column of the said Schedule opposite the name of the employed, such wages to be

paid*

†

3

*

†

State whether wages are to be paid daily, weekly or monthly.

Set out the obligation (if any) of the employer with regard to supplying rations, etc., and any other obligations of the employer or employed which are not covered by the Act or Regulations.

4

5

In witness whereof the parties have hereunto set their hands or made their marks the day and year first above written.

Signed by the said employer

in the presence of)

.....)

Signature of employer

<i>Name of employed</i>	<i>Capacity in which employed</i>	<i>Rate of wages</i>	<i>Signature or mark of employed</i>
1.....
2.....
3.....
4.....
5.....
6.....

Signed by the employed in the presence of (Witness)

Attestation when employed are illiterate

I hereby certify that the above contract was read over and explained to all the parties thereto who are illiterates in my presence and was entered into by them voluntarily and with full understanding of its meaning and effect.

Signature of person attesting

FORM B
[Regulation 3.]

Contract of Service (Foreign Employment)

MEMORANDUM OF AGREEMENT made this day of, 20

between of (*hereinafter called the employer*) of the one part and each of the parties whose names are set out in the Schedule below (*hereinafter called the labourers*) of the other part. Subject to the provisions of the Labour Act (Cap. L1), the labourers and each of them severally hereby agree to serve the employer as for the term ofmonths and to obey all lawful and reasonable commands of the employer or his overseers or authorised agents, in consideration whereof and subject as aforesaid the employer agrees with each labourer severally to convey him free of cost whether for transport or maintenance to his place of employment and from and after his arrival thereat to pay him wages at the rate of *per diem* together with an adequate daily ration or an allowance in lieu thereof at the rate of *per diem*; such wages to be paid as to one half thereof monthly at the expiration of each month of service and as to the other half immediately upon his return to the place of embarkation as hereinafter provided.

And the employer further agrees to provide each of the said labourers with reasonable quarters free of cost and with medicine and medical attendance when sick; and also within fourteen days after the expiration of this contract to convey each of the said labourers free of cost whether for transport or maintenance to the place whence they first embarked for the purpose of fulfilling this contract.

FORM B - continued

In witness whereof the parties have hereunto set their hands or made their marks the day and year first above written.

Signed by the said employer in the presence of

(*Witness*)

Schedule of labourers

Native of

<i>Name</i>	<i>Native of</i>	<i>Mark</i>

..... *Witness to marks.*

Attestation when employed are illiterate

I hereby certify that the above contract was read over and explained to all the parties thereto who are illiterates in my presence and was entered into by them voluntarily and with full understanding of its meaning and effect.

(Seal) *Authorised Labour Officer.*

FORM C
[Regulation 48.]

Deed of apprenticeship

THIS DEED, made the day of 20
between (*a boy* above the age of nine years and under the
age of sixteen years*) by
that of the said of the one
part and of of the other part:
..... Witnesseth as follows-

* Or "girl".
† "Father", "mother", or "guardian".

1. The said by the authority of the said
hereby binds himself apprentice to the said
..... for years
from the date hereof and agrees during that term faithfully to serve the said
..... and obey his lawful commands and not absent
himself by day or night from the service of the said
..... without leave.

2. The said agrees with the said
that during the said term he will provide him with sufficient subsistence and proper lodging
and suitable clothing and medical advice and medicine, and will instruct him or cause him to be
instructed in the employment of
..... and will cause him to be sent
and will bring him to the
regularly to school' until he is of the age of
secretary to the local government council at
In witness whereof(..... the day and year first above written. (L.S.)

Attestation where pony or ponies can read and write

Signed, sealed and delivered by the said(L.S.)
In the presence of(L.S.)

Authorised Labour Officer

The mark of the said .

Attestation where any of the parties is illiterate

..was made hereto and this

indenture was sealed and delivered by him after the same had been interpreted to him by
(sworn) interpreter (of the court) in the
language, when he seemed fully to understand the same.

In the presence of .. .

Authorised Labour Officer

Approved

Authorised Labour Officer

20

* The clause as to schooling may be struck out if necessary.

† “The said.....have hereunto set their hands and seals”, or “the
said.....have hereunto made their marks and sey their seals”, or
“the said.....has hereunto set his hand and seal, and the said

FORM C - continued

.....has hereunto set his seal”, as the case may be.

FORM D
[Regulation 48.]

Deed of apprenticeship

THIS DEED, made the day of 20

Between(a child under the age of sixteen years,
without known relatives and without a guardian) by of
(who has been appointed by the Governor of the State
as the guardian of the said and to execute this deed on his behalf) of the one

part andof of the other part:

Witnesseth as follows -

1. The said by the authority of the said Governor hereby binds himself apprentice to the saidfor years from the date hereof and agrees during that term faithfully to serve the said and obey his lawful commands and not absent himself by day or night from the service of the said without leave.

2. The said agrees with the said that during the said term he will provide him with sufficient subsistence and proper lodging and suitable clothing and medical advice and medicine, and will instruct him or cause him to be instructed in the employment

of and will cause him to be regularly sent to school' until he is of the age ofand will bring him to the secretary to the local government council at on the first Monday in January, April, July and October in each year and at such other times or to such other officer as the secretary to the local government council shall direct.

In witness whereof[†] the day and year first above written .

..... (L. S.)

Attestation where part)' or parties can read and write

Signed, sealed and delivered by the said (L. S.)

In the presence of (L. S.)

Authorised Labour Officer

* The clause as to schooling may be struck out if necessary.

† "The said have hereunto set their hands and seals", or "the said have hereunto made their marks and set their seals", or

FORM D - continued

"the said..... has hereunto set his hand and seal, and the said

..... has hereunto made his mark and set his seal", as the case may be.

Attestation where any of the parties is illiterate

The mark of the said was made hereto and this indenture was sealed and delivered by him after the same had been interpreted to him by

(sworn) interpreter (of the court) in

the language, when he seemed fully to understand the same.

In the presence

Authorised Labour Officer

Approved.....

Authorised Labour Officer

.....20

FORM E
[Regulation 48.]

Deed of apprenticeship

THIS DEED, made the day of20.....

Between.....(a person not under the age of sixteen years)

Of.....of the one part, and of

..... of the other part:

1. The saidhereby binds himself apprentice to the
said.. .. foryears from the date thereof and agrees during that term
faithfully to serve the said and obey his lawful commands and not
absent himself by day or night from the service of the saidwithout leave.

2. The said agrees with the said
that during the said term he will provide him with sufficient subsistence and proper lodging and
suitable clothing and medical advice and medicine, or wages in lieu thereof, and will instruct him or
cause him to be instructed in the employment of.....

In witness whereof*the day and year first above written .

.....(L.S.)

* 'The said have hereunto set their hands and seals", or "the
said have hereunto made their marks and set their seals", or
"the said..... has hereunto set his hand and seal, and the said

FORM E - continued

..... has hereunto made his mark and set his seal", as the case may be.

Attestation where party or parties can read and write

Signed, sealed and delivered by the said(L.S.)

In the presence of(L.S.)

Authorised Labour officer

Attestation where any of the parties is illiterate

The mark of the said was made hereto and this indenture was sealed and delivered by him after the same had been interpreted to him by (*sworn*) interpreter (*of the court*) in the language when he seemed fully to understand the same.

In the presence of

Authorised Labour Officer

Approved

Authorised Labour Officer

..... 20

FORM F

Attendance Book

No.

.....

Name

Occupation

Date of engagement

Term of contract months from the above date

Rate of wages per month

Rate of ration money per week

Name of employer

Month of

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31	11			

Days worked during month

Wages due for month

Advances made during month and repayable at the expiration of contract

FORMG

[Regulation 48.]

Form of Licence to recruit Nigerian Workers for Foreign Service

A.B. of.....

as agent for

is hereby licensed to recruit.....

labourers in the(State/Local Government/Council) under the provisions of sections 36-44 of the Labour Act (Cap. L1).....

This licence expires on the, 20.....

Dated thisday of, 20.....

.....

President

FORM H
[Regulation 48.]

Permit to engage Nigerian Workersfor Foreign Service

A.B. of

is hereby permitted to engage through an agent licensed under section 21-22

of the Labour Act from the(State/Local Government/Council)

(subject to the provisions of the Labour Act) any number of native

labourers not exceedingfor service with

at.....such labourers to embark from

This permit shall be in force for three months from the date hereof unless the above number of labourers shall have been engaged under it at any time within such period, and subject to cancellation or suspension according to law.

Dated this day of.....20.....

.....

President

FORM 1

Form of Register

Name of labourer	Native of	Date of contract	Duration of contract	Name of employer	Place where contract is to be performed	Nature of service

*These regulations, made under section 62 of Act No. I of 1929 (repealed by the Labour Act, remain in force by virtue of section 6 of the Interpretation Act, Cap. 123 in so far as they are not inconsistent with that Act.

DOCK LABOUR (REGISTRATION AND CONTROL OF EMPLOYMENT) RULES

ARRANGEMENT OF RULES

RULE

1. Short title.
2. Interpretation.
3. Registration of dock workers and employers.
4. Obligations of registered dock workers.
5. Obligations of registered employers.
6. Registration of employment.
7. Removal from register.
8. Wages and conditions of employment.
9. Guarantee in respect of preference workers.
10. Unemployed registered dock workers.
11. Duties of port labour officer.
12. Right of master and crew.
13. Establishment of pool.
14. Application of the pool.
15. Organisation of the pool.
16. Disciplinary action for breach.

17. Board and committee.
18. Expenses.
19. Dock workers on permanent establishment.

**DOCK LABOUR (REGISTRATION AND CONTROL OF
EMPLOYMENT) RULES**

[L.N. 39 of 1967.]

under section 68

[8th March, 1967]

[Commencement.]

1. Short title

(1) These rules may be cited as the Dock Labour (Registration and Control of Employment) Rules.

(2) These Rules shall apply to employers, and to industrial workers employed as dock workers, in the ports in Nigeria to which these Rules apply or are applied.

(3) The President shall declare from time to time the ports to which these Rules shall apply.

2. Interpretation

In these Rules, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say-

"**cargo**" means manifested cargo and includes passenger's baggage;

"**dock employer**" means a person by whom a dock worker is employed or to be employed and includes a stevedore labour contractor;

"**dock work**" means operations at places or premises to which these Rules apply, ordinarily performed by dock workers;

"**dock worker**" means a person employed or to be employed in, or in the vicinity of a port or work connected with the loading, unloading, movement or storage of cargoes, or work connected with the preparation of ships or other vessels for the receipt or discharge of cargoes, and includes persons engaged in itinerant dockwork on coastal voyages, a tally clerk casually employed, and a supervisor, headman or person for the time being in charge of a gang of dock workers;

"**non-preference worker**" means a dock worker whose name is for the time being entered on the non-preference list in the register;

"**Permanent Secretary**" means the Permanent Secretary, Federal Ministry of Employment, Labour and Productivity and includes any other officer of that Ministry for the time being designated by him for the purposes of these Rules;

"**pool**" means a central reserve of such number or class or description of registered dock workers as the Permanent Secretary may, from time to time, determine;

"**port labour officer**" means a labour officer, labour inspector, assistant labour inspector or any other officer for the time being assigned by the Permanent Secretary to take charge of duties connected with dock work;

"**preference worker**" means a dock worker whose name is for the time being entered on the preference list in the register;

"**President**" means the President of the Federal Republic of Nigeria;

"**principal**" means a shipping company, or shipping agency, or the Nigerian Ports Authority;

"**register**" means the register of dock workers or of dock employers maintained by the port labour officer in accordance with these rules;

"**registered dock worker**" means a dock worker whose name is for the time being entered in the register whether in the preference list or in the non-preference list;

"**registered employer**" means a dock employer whose name is for the time being entered in the register of employers.

3.Registration of dock workers and employers

(1) The port labour officer shall register such number of dock workers employed or to be employed in the port or ports under his charge as may, from time to time, be determined by the President, who may lay down conditions for such registration.

(2) For the purpose of such registration a dock employer shall, when requested by the Permanent Secretary to do so, forward to the port labour officer a list of dock workers employed by him showing, separately, the names of the workers who are to be placed on the preference list and of those to be placed on the non-preference list.

(3) The number of such registered dock workers, two thirds of which shall be on the preference list and one third on the non-preference list, shall be determined by the Permanent Secretary.

(4) Nothing in paragraphs (2) and (3) of this rule shall prevent a dock employer from transferring at any time any of his registered non-preference workers to the preference list and the port labour officer may admit any such worker to that list on the employer's request:

Provided that the total number of registered dock workers allocated to the employer by the Permanent Secretary shall not be exceeded.

(5) Registration of a dock worker shall include the preparation of a registration document for the worker, which document shall contain a photograph of the registered dock worker and an identity card approved by the Permanent Secretary and on completion of the registration, the port labour officer shall issue the registration document to the registered dock worker.

(6) The port labour officer shall register such number of dock employers engaged or to be engaged in dock work in the port or ports under his charge as may, from time to time, be determined by the President, who may lay down conditions for such registration.

(7) No dock employer who has not been registered in accordance with these rules shall carry out contracts involving the use of dock workers.

4. Obligations of registered dock workers

(1) Every registered dock worker shall be deemed to have accepted the provisions of these Rules.

(2) A registered dock worker shall carry his identity card at all times whilst at work and shall produce it for the inspection of the port labour officer, police officer or Nigerian Ports Authority dock superintendent whenever reasonably demanded.

(3) A preference worker who is informed by his employer that he will not be required for work on his next normal shift shall report to the port labour officer at the time he would normally be required to report for work and the worker may then be offered temporary work for that shift with another registered employer.

(4) A preference worker who is sent for work to a registered employer other than the registered employer with whom he is registered shall carry out his duties in accordance with the rules of his temporary employer.

(5) A dock worker registered on the non-preference list may report to the port labour officer on any day on which the worker is not offered work by the employer with whom he is registered but such worker shall not be offered work until all preference workers have been placed in employment for that day.

(6) Identity cards issued as a result of the implementation of these Rules shall remain the property of the Federal Ministry of Employment, Labour and Productivity and persons to whom the cards are issued may be required to surrender them on reasonable demand or at the discretion of the Permanent Secretary.

(7) Every registered dockworker while in employment shall carry out his duties in accordance with the instructions of his employer for the time being and in compliance with the provisions of these Rules.

5. Obligations of registered employers

(1) Every registered employer shall be deemed to have accepted the provisions of these Rules.

(2) A registered employer-

- (a) shall keep such records as may be required by the port labour officer;
- (b) shall furnish, on such forms as the port labour officer may specify, true and accurate information relating to-
 - (i) the number of registered dock workers employed by him;
 - (ii) the hours and overtime worked by his dock workers;
 - (iii) the basic and overtime wage rates paid to his dock workers;
 - (iv) the reasons for any absence from work of a dock worker;

- (v) the names of his dock workers who are engaged temporarily by any other registered employer; and
- (vi) any other matters as may be specified by the port labour officer.

(3) A registered employer shall not on any day employ any dock worker on his non-preference list until he has provided employment for all the dock workers in his preference list, and he shall accept for temporary employment any preference workers submitted for work by the port labour officer before offering work to a worker on his non-preference list.

(4) A registered employer shall report in writing to the port labour officer for final decision any disciplinary action involving the dismissal or suspension of a dock worker registered with the employer and the report shall include the reasons for the dismissal or suspension.

(5) The port labour officer's decision on such report shall include a ruling on whether or not the name of a dismissed dock worker shall be removed from the register.

6.Registration of employment

(1) No person other than a registered employer shall be engaged in dock work or employ any worker on dock work and, save as hereinafter provided, a registered employer shall not engage for employment or employ a worker on dock work unless that worker is a registered dock worker.

(2) Notwithstanding the foregoing paragraph of this rule, where the port labour officer is satisfied that dock work is urgently required to be done and it is not reasonably practicable to obtain a registered dock worker for that work, he may in respect of that work either allocate to a registered employer a person who is not a registered dock worker or permit a registered employer himself to engage such a person and a dock worker employed under this paragraph shall be employed on daily basis.

(3) Notwithstanding any other provision contained in these Rules a supervisor, headman or person for the time being in charge of a gang of dock workers shall be held liable for any contravention of these rules where the employer satisfactorily shows that the said contravention came about by the disregard of the employer's instruction and that the employer had done all within his power to prevent such contravention.

(4) The port labour officer shall have the power to remove from any place or places to which these rules apply an unregistered dock worker employed without his previous permission in accordance with the provisions of these Rules.

(5) Any person who obstructs the port labour officer in the discharge of his function under paragraph (4) of this rule shall be deemed to have committed an offence against the Labour Act.

[Cap. L1.]

7. Removal from register

(1) These Rules shall cease to apply to a registered dock worker when his name has been removed from the register of dock workers in accordance with the provisions of these Rules.

(2) These Rules shall cease to apply to a registered employer when his name has been removed from the register of employers in accordance with the provisions of these rules.

(3) Nothing in this rule shall affect any obligation incurred or right accrued during any time when the person was a registered dock worker or a registered employer.

(4) The President may, for the purpose of securing greater regularity of employment of dock workers, cancel the registration of such number of dock workers as it may, from time to time, determine.

8.Wages and conditions of employment

(1) It shall be an implied condition of the contract between a dock worker available for work and a registered employer that the rate of remuneration and conditions of service shall be in accordance with the law and in accordance with any local or national collective agreements for the time being in force.

(2) A registered employer shall pay wages or other remuneration for the services of a dock worker direct to the dock worker and no such wages or remuneration shall be paid through a supervisor, headman or any person in charge of a gang of dock workers.

9.Guarantee in respect of preference workers

(1) A preference worker who reports for duty on each day of the month at the place and time designated by the registered employer or who reports to the port labour officer after being informed that work will not be available for the next normal shift shall be guaranteed, by the employer, employment for fifteen days in each calendar month or a sum of money which, when calculated on piece-work or time-work and overtime or bonus, is not less than fifteen days' pay at the current daily rates for dock workers.

(2) The guarantee referred to in subrule (1) of this rule shall apply in respect of preference workers only and shall not apply to dock workers on the non-preference list.

(3) The guarantee referred to in subrule (1) of this rule shall not apply-

- (a) during any month or comparable pay period in which preference workers voluntarily withdraw their services, whether in pursuance of a trade dispute or otherwise; or
- (b) where a preference worker absents himself without the approval of his employer or refuses to accept work offered him by his registered employer, or, on having been allocated to a temporary employer by the port labour officer he refuses such temporary employment.

(4) When a preference worker or a non-preference worker has been allocated by the port labour officer for temporary employment with a registered employer other than the employer with whom he is registered, the remuneration due to the dock worker for this temporary work shall be paid to him by the employer temporarily using his services.

(5) The regular employer shall be informed by the port labour officer whenever a preference worker is placed with another registered employer for temporary work and the regular employer shall credit the dock worker with each such day's work and shall have the right to deduct such days of temporary employment from the number of days worked or remuneration guaranteed by the employer under these rules.

(6) A registered employer shall not, without the approval of the Permanent Secretary, refuse to offer work to a dock worker allocated to him by the port labour officer.

(7) Notwithstanding anything contained in these Rules, a dock worker shall be entitled to be paid for each day he is employed during any calendar month or any comparable period.

10. Unemployed registered dock workers

(1) Where in accordance with rule 4 (3) of these Rules a preference worker, who is informed by his employer that he will not be required for work on his next normal shift, reports to the port labour officer, that officer shall enter the name and the registration number of the preference worker in a daily register and the employer under whom the worker is registered shall be informed as to whether or not the worker has been allocated temporary work.

(2) If a preference worker so reporting is not allocated temporary work he shall remain at the port labour office until dismissed by the port labour officer.

11. Duties of port labour officer

Subject to the provisions of these Rules, the port labour officer shall perform such duties as may, in furtherance of the objects of these rules, be assigned to him, from time to time, by the Permanent Secretary.

12. Right of master and crew

Nothing in these Rules shall prevent the master and the crew of any vessel in any port in Nigeria from undertaking work in connection with the preparation of their vessel for the receipt or discharge of cargo, ship stores or ballast by hoisting the vessel's derricks and rigging them for discharging or loading; uncovering the vessel's holds; having dunnage or otherwise preparing the vessel to receive or to discharge cargo.

13. Establishment of pool

(1) Notwithstanding the provisions of rules 1 to 12 of these Rules the President may, as and when he considers it necessary, set up a pool in any place.

(2) If, as respects any place where a pool has been set up, any of the provisions of rules 3 to 12 of these Rules is inconsistent with any of the provisions of rules 13 to 16 of these Rules, the provisions of rules 13 to 16 of these Rules shall prevail and the provisions of rules 3 to 12 of these Rules shall, to the extent of such inconsistency, be inapplicable to that place.

14. Application of the pool

The pool shall apply to such number or class or description of registered dock workers as may, from time to time, be determined by the President and to registered employers and principals engaged on dock work in any port in Nigeria.

15. Organisation of the pool

(1) Every registered employer shall notify the port labour officer, on prescribed form, of the number of dock workers he requires for work and such notification shall be sent to reach the port labour officer not less than 24 hours before the time the employer requires the workers to commence work.

(2) All unemployed registered dock workers shall report daily at such places and at such time as may be determined by the port labour officer.

(3) No registered employer shall employ a dock worker other than a dock worker allocated to him by the port labour officer and no registered dock worker shall work for a registered employer without being allocated by the port labour officer to the employer.

(4) For the purpose of the pool, a registered employer to whom a dock worker has been allocated by the port labour officer for work shall be deemed for the time being to be the employer of such dock worker, and the registered employer shall be responsible for the wages, overtime pay and other legal obligations arising from the contract of service.

(5) Registered dock workers in the pool shall have no claim to payment of guaranteed wages.

(6) Notwithstanding the provision of rule 8 (2) of these Rules, the President may prescribe the manner in which wages or other remuneration shall be paid to a dock worker.

(7) This rule shall apply where a pool has been set up.

16. Disciplinary action for breach

(1) A registered dock worker in a pool who fails to carry out his duties in accordance with these Rules or fails to comply with any lawful orders given to him by his employer or by the port labour officer or is inefficient or negligent in the discharge of his duties or absents himself from duty without permission or acceptable reason, or misconducts himself in the port labour office or port labour call office, may be suspended from duty for a period not exceeding fourteen days for each fault, or may have his registration cancelled, by the Permanent Secretary.

(2) Any dock employer who fails to carry out any of the provisions of these Rules shall be deemed to have committed an offence against the Labour Act.

[Cap. L1.]

(3) Any headman or person in charge of a gang of dock workers who fails to carry out his duties in accordance with these Rules may be suspended from duty for a period not exceeding fourteen days in respect of each day for which the contravention is committed, or may have his registration cancelled, by the Permanent Secretary.

(4) A registered dock worker who contravenes the provisions of the rules for which no special penalty has been provided may be suspended from duty for a period not exceeding fourteen days in respect of each contravention, or may have his registration cancelled, by the Permanent Secretary.

(5) Any principal who fails to carry out any of the provisions of these Rules shall be deemed to have committed an offence against the Labour Act.

[Cap. L1.]

(6) Notwithstanding the provisions of sub-rule (2) of this rule, where a registered employer fails to carry out any of the provisions of these Rules his name may be removed from the register of employers after seven days' notice in writing served on him by the Permanent Secretary and where the name is so removed it shall not be re-instated in the register of employers within twelve months of such removal or such lesser period as the Permanent Secretary may determine.

17. Board and committee

The President may appoint a board, committee or other consultative body for the purpose of providing such information or advice generally as may be necessary for carrying out the objects of these Rules.

18. Expenses

The President may prescribe the manner in which any expenses incurred or to be incurred in the application of these Rules shall be defrayed.

19. Dock workers on permanent establishment

(1) Notwithstanding the provisions of these Rules, a registered employer or principal may employ dock workers on permanent establishment.

(2) Immediately after the application of these Rules in any port, a registered employer or principal in that port shall forward to the port labour officer for registration a list of the dock workers employed on his permanent establishment and shall notify the port labour officer of any changes in the list as they occur.

(3) A registered employer or principal shall forward to the port labour officer, as and when required, information relating to wages, salaries, overtime, holiday, sickness and other matters regarding the dock workers on his permanent establishment.

(4) The provisions of rule 4 (2) of these Rules shall apply to dock workers on permanent establishment.

(5) Before removing a dock worker who is on permanent establishment his registered employer or principal shall withdraw the registration document of the dock worker and forward it to the port labour officer.

(6) A dock worker on permanent establishment shall forthwith after leaving his registered employer or principal return his registration document to the port labour officer.

(7) Any dock worker on permanent establishment who fails to carry out the provisions of this rule shall be deemed to have committed an offence against the Act.

DOCK LABOUR (REGISTRATION AND CONTROL OF EMPLOYMENT) RULES (APPLICATION) DECLARATION

ARRANGEMENT OF RULES

RULE

1. Ports to which the Rules apply.
2. Short title.

**DOCK LABOUR (REGISTRATION AND CONTROL OF EMPLOYMENT)
RULES (APPLICATION) DECLARATION**

[S.I.15 of 1971.]

under rule 1 (3) of L.N. 39 of 1967

[1st April, 1971]

[Commencement.]

1. Ports to which the Rules apply

The Dock Labour (Registration and Control of Employment) Rules shall apply to the ports of Warri, Port Harcourt and Calabar.

2. Short title

This declaration may be cited as the Dock Labour (Registration and Control of Employment) Rules (Application) Declaration.