



THE STATUTES OF THE GELEPHU MINDFULNESS CITY,
KINGDOM OF BHUTAN

EMPLOYMENT ACT 2025

Employment Act 2025

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation
- 2AA. References to Singapore dollar read to be United States dollar
3. Appointment of officers
4. Rules and orders
5. Designated officer may restrict application
6. Existing law not affected
7. *[Not in use]*

PART 2

CONTRACTS OF SERVICE

8. Illegal terms of contract of service
9. Termination of contract
10. Notice of termination of contract
11. Termination of contract without notice
12. Contractual age
13. When contract deemed to be broken by employer and employee
14. Dismissal
15. Termination by employee threatened by danger
16. Liability on breach of contract
17. *[Not in use]*
18. Change of employer
- 18A. Transfer of employment
19. Offence

PART 3

PAYMENT OF SALARY

20. Fixation of salary period
- 20A. Computation of salary for incomplete month's work
21. Time of payment

Employment Act 2025

- 21A. Workers to be paid at least the national minimum wage
- 22. Payment on dismissal
- 23. Payment on termination by employee
- 24. Income tax clearance
- 25. Payment to be made during working hours
- 26. No unauthorised deductions to be made
- 27. Authorised deductions
- 28. Deductions for absence
- 29. Deductions for damages or loss
- 30. Deductions for accommodation, amenity and service
- 31. Recovery of advances and loans
- 32. Deductions not to exceed prescribed limit
- 33. Priority of salary to other debts
- 34. Offence

PART 4

REST DAYS, HOURS OF WORK AND OTHER
CONDITIONS OF SERVICE

- 35. Application of this Part to certain workmen and other employees
- 36. Rest day
- 37. Work on rest day
- 38. Hours of work
- 39. Task work
- 40. Shift workers, etc.
- 41. Interpretation of “week” for purposes of sections 36, 38 and 40 41A.
- 41A. Power to exempt
- 42. [Not in use]
- 43. [Not in use]
- 44. [Not in use]
- 45. Payment of retrenchment benefit
- 46. Retirement benefit
- 47. [Not in use]
- 48. Payment of annual wage supplement or other variable payment
- 49. Power of designated officer to make recommendations for wage adjustments
- 50. Interpretation for purposes of sections 48 and 49
- 51. [Not in use]
- 52. Power to suspend application of this Part
- 53. Offence

PART 5

Employment Act 2025

TRUCK SYSTEM

- 54. Agreements to pay salary otherwise than in legal tender or approved mutually agreed manner illegal
- 55. Agreements as to place and manner, etc., of spending salary illegal
- 56. Salary to be paid entirely in legal tender
- 57. Recovery of salary not paid in legal tender
- 58. Interest on advances forbidden
- 59. Remuneration other than salary
- 60. Shops and canteens
- 61. Offence
- 62. [Not in use]
- 63. Payment of salary through bank
- 64. Limitations on application of this Part

PART 6

CONTRACTORS AND CONTRACTING

- 65. Liability of principals, contractors and subcontractors for salary of workman
- 66. Registration of contractors and subcontractors

PART 6A

PART-TIME EMPLOYEES

- 66A. Part-time employees
- 66B. Designated officer may exclude or modify Act in relation to part-time employees

PART 7

DOMESTIC WORKERS

- 67. Designated officer may apply Act to domestic workers

PART 8

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

- 67A. Interpretation of this Part
- 68. Restriction on employment of children
- 69. Restriction on employment of young persons

- 70. Conditions of employment
- 71. Minimum rates of salary may be prescribed
- 72. Approved employment
- 73. Regulations regulating employment
- 74. Offence
- 75. [Not in use]

PART 9

MATERNITY PROTECTION, PATERNITY PROTECTION, AND BENEFITS AND CHILDCARE LEAVE FOR PARENT

- 76. Length of benefit period
- 76A. Length of benefit period, etc., in respect of paternity leave
- 76B. Eligibility criteria and cap in respect of paternity leave benefits
- 77. Payments to include holidays, etc.
- 78. When payment is to be made
- 79. Payment of benefit on death of female employee before confinement
- 80. Notice of confinement
- 81. Dismissal during absence prohibited
- 82. Employment after confinement
- 83. Forfeiture of payment
- 84. Right to benefit unaffected by notice of dismissal given without sufficient cause
- 84A. Right to benefit unaffected by notice of dismissal given on ground of redundancy or by reason of reorganisation of employer's profession, business, trade or work
- 85. [Not in use]
- 86. Contracting out
- 87. Offences and penalties
- 87A. Childcare leave for parent

PART 10

HOLIDAY, ANNUAL LEAVE AND SICK LEAVE ENTITLEMENTS

- 88. Holidays
- 88A. Annual leave
- 89. Sick leave
- 90. Offence

Employment Act 2025

PART 11

[*Not in use*]

- 91. [*Not in use*]
- 92. [*Not in use*]
- 93. [*Not in use*]
- 94. [*Not in use*]

PART 12

REGISTERS, RETURNS AND OTHER
DOCUMENTARY REQUIREMENTS

- 95. Employers' obligation in relation to employee records
- 95A. Employers' obligation to give record of key employment terms
- 96. Employers' obligation in relation to pay slips
- 96A. Employers' obligation to furnish information on retrenchment of employees
- 97. Returns
- 98. Commissioner may call for further returns
- 99. Power to call for returns, books, etc.
- 100. [*Not in use*]
- 101. Offence
- 102. Returns not to be published or disclosed

PART 13

INSPECTION AND ENQUIRY

- 103. Powers of Commissioner and inspecting officers
- 104. Notice to employer by Commissioner or inspecting officer of inspection or visit
- 105. Power to arrest without warrant
- 105A. How to arrest
- 105B. No unnecessary restraint
- 105C. Search of persons arrested
- 105D. Inspecting officer to be armed
- 105E. Power to seize offensive weapons
- 105F. Power on escape to pursue and arrest
- 106. Inspecting officer not to reveal secrets
- 106A. Disposal of documents, articles, etc.
- 107. Offence

PART 14

GENERAL

Employment Act 2025

- 107A. Calculation of gross and basic rates of pay of employee employed on monthly rate or piece rates
- 108 Wrongful detention of employee
- 109 Employee not answerable for debt, default or miscarriage of another
- 110 Obstruction of employee by employer
- 111 Punishment for obstruction
- 112 Penalties
- 112A. Abetment of offences
- 113 Penalty for fraudulently inducing employee to emigrate
- 113A. Offences by bodies corporate, etc.
- 114 Power to compound offences

PART 15

CLAIMS, COMPLAINTS AND INVESTIGATIONS INTO OFFENCES

- 115. Commissioner's power to inquire into complaints
- 116. Prohibiting order by Commissioner to third party
- 117. Right of appeal
- 118. Fees and enforcement of orders
- 119. Procedure for making and hearing claims
- 120. Representation before Commissioner
- 121. Joining of claims
- 122. Jurisdiction of courts not affected
- 123. No division of claims
- 124. Investigations of complaints and offences
- 125. Procedure after inquiry
- 126. Costs of proceedings

PART 15A

ADMINISTRATIVE PENALTIES

- 126A. Civil contraventions
- 126B. Payment of administrative penalty
- 126C. Appeal, etc.
- 126D. Directions

PART 16

PROCEDURE AND REGULATIONS

- 127. [Not in use]
- 127A. Protection from personal liability
- 128. [Not in use]

Employment Act 2025

- 129. Jurisdiction of Magistrates' and District Courts
- 130. Right to hearing
- 131. Onus of proof
- 132. Civil proceedings not barred
- 133. Power to deal with evidence taken down by another officer
- 134. Application of fines
- 135. Imprisonment to be in discharge of fine, compensation, etc.
- 136. Recovery of money as fines
- 137. Service of requisitions and summons
- 138. [Not in use]
- 139. Power to make regulations
- 140. Amendment of Schedules
 - First Schedule Workmen
 - Second Schedule Registration fee
 - Third Schedule Calculation of gross and basic rates of pay of an employee employed on a monthly rate or on piece rates
 - Fourth Schedule Employee's hourly basic rate of pay for calculation of payment due for overtime
 - Fifth Schedule Number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii)

In exercise of the powers under Article 4(2) of the GMC Royal Charter No. 1 of 2024, and with the assent of the Druk Gyalpo, the GMC Authority hereby makes the following Act:

An Act relating to employment and to repeal and re-enact with amendments to the Employment Act 1968 specified in item 5 of Schedule A to the Application of Laws Act 2024 (Law No. 1 of 2024).

PART 1

PRELIMINARY

Short title and commencement

1.—(1) This Act is the Employment Act 2025 and is deemed to have come into operation on 26 December 2024.

(2) The Employment Act 1968 specified in item 5 of Schedule A to the Application of Laws Act 2024 (Law No. 1 of 2024) is repealed.

(3) The designated officer may appoint different dates for the coming into operation of the different Parts or provisions of this Act.

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“approved medical institution” means a hospital, clinic, healthcare establishment or other medical institution which the designated officer, by notification in the *Gazette*, declares as an approved medical institution;

“authorised officer” means any person appointed as an authorised officer under section 3(2);

“basic rate of pay” means the total amount of money (including wage adjustments and increments) to which an employee is entitled under his or her contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his or her contract of service, or for each completed piece or task of work but does not include —

- (a) additional payments by way of overtime payments;
- (b) additional payments by way of bonus payments or annual wage supplements;
- (c) any sum paid to the employee to reimburse him or her for special expenses incurred by him or her in the course of his or her employment;
- (d) productivity incentive payments; and
- (e) any allowance however described;

“civil contravention” means a contravention that is declared to be a civil contravention under section 126A;

“confinement” means the delivery of a child (including a stillborn child);

“constructional contractor” means any person, firm, corporation or company who or which is established for the purpose of undertaking, either exclusively or in addition to or in conjunction with any other business, any type of constructional work, and who or which is carrying out the constructional work for or on behalf of some other person under a contract entered into by that person, firm, corporation or company with such other person, and includes heirs, executors, administrators, assigns and successors of that person, firm, corporation or company;

“constructional work” means any building and civil engineering work and includes repair, maintenance, alteration and demolition work;

“contract of service” means any agreement, whether written or oral, express or implied, whether made before or after the commencement of this Act, whereby

one person agrees to employ another as an employee and that other agrees to serve his or her employer as an employee and includes an apprenticeship contract or agreement;

“contractor” means any person who contracts with a principal to supply labour or to carry out the whole or any part of any work undertaken by the principal in the course of or for the purposes of the principal’s trade or business;

“court” means such judicial body that the Druk Gyalpo may designate for the purposes of that provision;

“day” means a period of 24 hours beginning at midnight;

“dependant” means any of the following members of an employee’s family, namely, wife, husband, father, mother, child and any adopted or illegitimate child living with or dependent on the employee;

“designated officer” means a person appointed by the Druk Gyalpo as the officer designated for the purposes of this Act;

“dismiss” means to terminate the contract of service between an employer and an employee at the employer’s initiative, with or without notice and for cause or otherwise, and includes the resignation of an employee if the employee can show, on a balance of probabilities, that the employee did not resign voluntarily but was forced to do so because of any conduct or omission, or course of conduct or omissions, engaged in by the employer;

“domestic worker” means any house, stable or garden servant or motor car driver, employed in or in connection with the domestic services of any private premises;

“employee” means a person who has entered into or works under a contract of service with an employer, but does not include any of the following:

- (a) [Not in use]
- (b) any domestic worker;
- (c) [Not in use]
- (d) any person belonging to any other class of persons whom the designated officer may, by notification in the *Gazette*, declare not to be employees for the purposes of this Act;

“employer” means any person who employs another person under a contract of service and includes —

- (a) the GMCA;

- (b) any statutory authority;
- (c) the duly authorised agent or manager of the employer; and
- (d) the person who owns or is carrying on or for the time being responsible for the management of the profession, business, trade or work in which the employee is engaged;

“GMCA” means the Gelephu Mindfulness City Authority established under Article 3 of the Royal Charter;

“gross rate of pay” means the total amount of money including allowances to which an employee is entitled under his or her contract of service either for working for a period of time, that is, for one hour, one day, one week, one month or for such other period as may be stated or implied in his or her contract of service, or for each completed piece or task of work but does not include —

- (a) additional payments by way of overtime payments;
- (b) additional payments by way of bonus payments or annual wage supplements;
- (c) any sum paid to the employee to reimburse him or her for special expenses incurred by him or her in the course of his or her employment;
- (d) productivity incentive payments; and
- (e) travelling, food or housing allowances;

“hours of work” means the time during which an employee is at the employer’s disposal and is not free to dispose of his or her own time and movements exclusive of any intervals allowed for rest and meals;

“industrial undertaking” means public and private undertakings and any branch thereof, and includes particularly —

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) undertakings in which articles are manufactured, assembled, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding, or in the generation, transformation or transmission of electricity or motive power of any kind;
- (c) undertakings engaged in constructional work; and

(d) undertakings engaged in the transport of passengers or goods by road, rail, sea, inland waterway or air, including the handling of goods at docks, quays, wharves, warehouses or airports;

“inspecting officer” means any person appointed as an inspecting officer under section 3(2);

“machinery” includes all oil engines, gas engines, steam engines and any other machines in which mechanical movement, either linear or rotated or both, takes place, steam boilers, gas cylinders, air receivers, steam receivers, steam containers, cast iron underfired vulcanizers, refrigerating plants, pressure receivers, all appliances for the transmission of power by ropes, belts, chains, driving straps or bands or gearing, electrical generators and electrical motors;

“medical officer” means —

- (a) a medical practitioner employed by the GMCA or an approved medical institution; or
- (b) any other medical practitioner whom the designated officer declares, by notification in the *Gazette*, to be a medical officer for the purposes of this Act;

“medical practitioner” means a medical practitioner possessing such qualifications as the designated officer may prescribe;

“no-pay leave”, for an employee, means leave of absence without pay granted by the employer at the request of the employee;

“overtime” means the number of hours worked in any one day or in any one week in excess of the limits specified in Part 4;

“place of employment” means any place provided by the employer where work is carried on, for or on behalf of an employer, by an employee;

“principal” means any person who, in the course of or for the purposes of the person’s trade or business, contracts with a contractor for the supply of labour or for the execution by the contractor of the whole or any part of any work undertaken by the principal;

“productivity incentive payment” means a variable payment, whether made annually or otherwise, to an employee as a reward for —

- (a) an improvement to the employee’s performance; or
- (b) an increase in the employee’s productivity or contribution to the employer’s business, trade or undertaking,

but does not include any payment which forms part of the employee's regular remuneration;

“quarters” means any building provided or intended to be provided for a workman to live in either temporarily or permanently, and includes any room or building used or intended to be used whether communally or privately for the purposes of cooking, eating, washing or bathing and any latrines and urinals;

“salary” means all remuneration including allowances payable to an employee in respect of work done under his or her contract of service, but does not include

- (a) the value of any house accommodation, supply of electricity, water, medical attendance, or other amenity, or of any service excluded by general or special order of the designated officer published in the *Gazette*;
- (b) any contribution paid by the employer on his or her own account to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the employee to reimburse him or her for special expenses incurred by him or her in the course of his or her employment;
- (e) any gratuity payable on discharge or retirement; and
- (f) any retrenchment benefit payable on retrenchment;

“stillborn child” means a child that —

- (a) issues from the child's mother after the twenty-fourth week of pregnancy; and
- (b) does not show any sign of life at any time after being completely expelled or extracted from the mother,

and, to avoid doubt, does not include a foetus that is aborted by or through treatment carried out for termination of pregnancy.

“subcontractor” means any person who contracts with a contractor for the supply of labour or for the execution by the subcontractor of the whole or any part of any work undertaken by the contractor for the contractor's principal, and includes any person who contracts with a subcontractor to supply labour or to carry out the whole or any part of any work undertaken by the subcontractor for a contractor;

“subcontractor for labour” means any person who contracts with a contractor or subcontractor to supply the labour required for the execution of the whole or any

part of any work a contractor or subcontractor has contracted to carry out for a principal or contractor, as the case may be;

“wages” means salary;

“week” means a continuous period of 7 days;

“workman” means —

- (a) any person, skilled or unskilled, who has entered into a contract of service with an employer pursuant to which he or she is engaged in manual labour, including any artisan or apprentice, but excluding any domestic worker;
- (b) any person, other than clerical staff, employed in the operation or maintenance of mechanically-propelled vehicles used for the transport of passengers for hire or for commercial purposes;
- (c) any person employed partly for manual labour and partly for the purpose of supervising in person any workman in and throughout the performance of his or her work:

Provided that when any person is employed by any one employer partly as a workman and partly in some other capacity or capacities, that person is deemed to be a workman unless it can be established that the time during which that workman has been required to work as a workman in any one salary period as defined in Part 3 has on no occasion amounted to or exceeded one-half of the total time during which that person has been required to work in such salary period;

- (d) any person specified in the First Schedule; or
- (e) any person whom the designated officer may, by notification in the *Gazette*, declare to be a workman for the purposes of this Act.

(2) [Not in use]

References to Singapore dollar read to be United States dollar

2AA. In this Act, all references to the Singapore dollar (“\$” or “S\$” or “SGD”) are read as references to the United States dollar.

Appointment of officers

3.—(1) The designated officer may appoint an officer as the Commissioner for Labour (called in this Act the Commissioner) and also one or more officers as Deputy Commissioner for Labour, Principal Assistant Commissioner for Labour or Assistant Commissioner for Labour, who, subject to such limitations as may be prescribed, may

perform all duties imposed and exercise all powers conferred on the Commissioner by this Act, and every duty so performed and power so exercised is deemed to have been duly performed and exercised for the purposes of this Act.

(2) The designated officer may appoint such number of authorised officers, inspecting officers and other officers as the designated officer may consider necessary or expedient for the purposes of this Act.

(3) The Commissioner may in writing appoint an individual as an authorised person for the purpose of carrying out any function or duty of the Commissioner under this Act or any other written law relating to employment, employment terms or the relations between employers and employees.

(4) The Commissioner must, in writing, issue to each authorised person an authorisation specifying —

- (a) the functions and duties of the Commissioner that the authorised person is authorised to carry out;
- (b) the powers of the Commissioner that the authorised person is authorised to exercise;
- (c) the conditions of the authorisation; and
- (d) the limitations to which the authorisation is subject.

Rules and orders

4. The designated officer may make rules and orders for the conduct of the duties of officers under this Act.

Designated officer may restrict application

5. The designated officer may, by notification in the *Gazette*, declare that this Act or any Part or provisions thereof does not apply to any premises or class of premises specified in the notification.

Existing law not affected

6. Nothing in this Act operates to relieve any employer of any duty or liability imposed upon the employer by any other written law for the time being in force or to limit any powers given to any public officer by any other written law.

7. [Not in use]

PART 2

CONTRACTS OF SERVICE

Illegal terms of contract of service

8. Every term of a contract of service which provides a condition of service which is less favourable to an employee than any of the conditions of service prescribed by this Act is illegal and void to the extent that it is so less favourable.

Termination of contract

9.—(1) A contract of service for a specified piece of work or for a specified period of time, unless otherwise terminated in accordance with the provisions of this Part, terminates when the work specified in the contract is completed or the period of time for which the contract was made has expired.

(2) A contract of service for an unspecified period of time is deemed to run until terminated by either party in accordance with the provisions of this Part.

Notice of termination of contract

10.—(1) Either party to a contract of service may at any time give to the other party notice of the firstmentioned party's intention to terminate the contract of service.

(2) The length of the notice must be the same for both employer and employee and is to be determined by any provision made for the notice in the terms of the contract of service, or, in the absence of such provision, must be in accordance with subsection (3).

(3) The notice to terminate the service of a person who is employed under a contract of service must be at least —

- (a) one day's notice if the person has been so employed for less than 26 weeks;
- (b) one week's notice if the person has been so employed for 26 weeks or more but less than 2 years;
- (c) 2 weeks' notice if the person has been so employed for 2 years or more but less than 5 years; and
- (d) 4 weeks' notice if the person has been so employed for 5 years or more.

(4) This section does not prevent either party from waiving that party's right to notice on any occasion.

(5) The notice must be written and may be given at any time, and the day on which the notice is given is included in the period of the notice.

Termination of contract without notice

11.—(1) Either party to a contract of service may terminate the contract of service without notice or, if notice has already been given in accordance with section 10, without waiting for the expiry of that notice, by paying to the other party a sum equal to the amount of salary at the gross rate of pay which would have accrued to the employee during the period of the notice and in the case of a monthly-rated employee

where the period of the notice is less than a month, the amount payable for any one day is the gross rate of pay for one day's work.

(2) Either party to a contract of service may terminate the contract of service without notice in the event of any wilful breach by the other party of a condition of the contract of service.

Contractual age

12.—(1) Despite any other written law, a person below 18 years of age is, subject to the provisions of this Act, competent to enter into a contract of service.

(2) No contract of service as an employee is enforceable against a person below 18 years of age and no damages or indemnity are recoverable from that person in respect of the contract of service unless it is for his or her benefit.

When contract deemed to be broken by employer and employee

13.—(1) An employer is deemed to have broken the employer's contract of service with the employee if the employer fails to pay salary in accordance with Part 3.

(2) An employee is deemed to have broken the employee's contract of service with the employer if the employee is absent from work for more than 2 days continuously without prior leave from the employer and —

- (a) the employee has no reasonable excuse for the absence; or
- (b) the employee does not inform and does not attempt to inform the employer of the excuse for the absence.

Dismissal

14.—(1) An employer may after due inquiry dismiss without notice an employee employed by the employer on the grounds of misconduct inconsistent with the fulfilment of the express or implied conditions of the employee's service, except that instead of dismissing an employee an employer may —

- (a) instantly down-grade the employee; or
- (b) instantly suspend the employee from work without payment of salary for a period not exceeding one week.

(2) [Not in use]

(2A) [Not in use]

(3) [Not in use]

(4) [Not in use]

- (5) [Not in use]
- (6) [Not in use]
- (7) [Not in use]
- (7A) [Not in use]
- (8) For the purposes of an inquiry under subsection (1), the employer —
 - (a) may suspend the employee from work for —
 - (i) a period not exceeding one week; or
 - (ii) such longer period as the Commissioner may determine on an application by the employer; but
 - (b) must pay the employee at least half the employee's salary during the period the employee is suspended from work.
- (9) If the inquiry does not disclose any misconduct on the employee's part, the employer must immediately restore to the employee the full amount of the salary so withheld.

Termination by employee threatened by danger

15. An employee may terminate his or her contract of service with his or her employer without notice where the employee or the employee's dependant is immediately threatened by danger to the person by violence or disease that the employee did not by his or her contract of service undertake to run.

Liability on breach of contract

16. Subject to anything in the contract of service to the contrary, the party who breaks the contract of service is liable to pay to the other party a sum equal to the amount the firstmentioned party would have been liable to pay under section 11 had the firstmentioned party terminated the contract of service without notice or with insufficient notice.

- 17.** [Not in use]

Change of employer

18.—(1) If by or under any written law a contract of employment between any body corporate and an employee is modified and some other body corporate is substituted as the employer, the employee's period of employment at the time when the modification takes effect counts as a period of employment with that other body corporate, and the change of employer does not break the continuity of the period of employment.

(2) If on an employer's death the employee is taken into the employment of the personal representatives or trustees of the deceased, the employee's period of employment at the time of the death counts as a period of employment with the employer's personal representatives or trustees, and the death of the employer does not break the continuity of the period of employment.

(3) If there is a change in the partners, personal representatives or trustees who employ any person, the employee's period of employment at the time of the change counts as a period of employment with the partners, personal representatives or trustees after the change, and the change does not break the continuity of the period of employment.

Transfer of employment

18A.—(1) If an undertaking (whether or not it is an undertaking established by or under any written law) or part thereof is transferred from one person to another —

- (a) such transfer does not operate to terminate the contract of service of any person employed by the transferor in the undertaking or part transferred but such contract of service has effect after the transfer as if originally made between the person so employed and the transferee; and
- (b) the period of employment of an employee in the undertaking or part transferred at the time of transfer counts as a period of employment with the transferee, and the transfer does not break the continuity of the period of employment.

(2) Without affecting subsection (1), on completion of a transfer referred to in that subsection —

- (a) all the transferor's rights, powers, duties and liabilities under or in connection with any such contract of service are transferred by virtue of this section to the transferee;
- (b) any act or omission done before the transfer by the transferor in respect of that contract of service is deemed to have been done by the transferee; and
- (c) any act or omission done before the transfer by an employee employed in the undertaking or part transferred in relation to the transferor is deemed to have been done in relation to the transferee.

(3) On the completion of a transfer mentioned in subsection (1), it is declared for the avoidance of doubt that the terms and conditions of service of an employee whose contract of service is preserved under that subsection are the same as those enjoyed by the employee immediately prior to the transfer.

(4) Subsections (1) and (2) do not transfer or otherwise affect the liability of any person to be prosecuted for, convicted of and sentenced for any offence.

(5) As soon as it is reasonable and before a transfer under subsection (1) takes place, to enable consultations to take place between the transferor and the affected employees, the transferor must notify the affected employees of —

- (a) the fact that the transfer is to take place, the approximate date on which it is to take place and the reasons for it;
- (b) the implications of the transfer and the measures that the transferor envisages taking, in connection with the transfer, in relation to the affected employees or, if the transferor envisages that no measures will be so taken, that fact; and
- (c) the measures that the transferee envisages the transferee will, in connection with the transfer, take in relation to such of those employees as, by virtue of subsection (1), become employees of the transferee after the transfer or, if the transferee envisages that no measures will be so taken, that fact.

(6) As soon as it is reasonable, the transferee must give the transferor such information so as to enable the transferor to perform the duty imposed on the transferor by virtue of subsection (5)(c).

(7) Where the Commissioner considers that there has been an inordinate delay —

- (a) by the transferor in notifying the affected employees of the matters set out in subsection (5); or
- (b) by the transferee in notifying the transferor of the information set out in subsection (6),

the Commissioner may, by written notice, direct the transferor to comply with subsection (5) or the transferee to comply with subsection (6) (as the case may be) within such time as may be specified in the notice.

(8) [Not in use]

(8A) [Not in use]

(9) A dispute or disagreement between the transferor and an employee or the transferee and an employee arising from a transfer under subsection (1), whether before or after the transfer, may be referred by a party to the dispute or disagreement to the Commissioner under section 115 and is deemed to be a dispute to which that section applies.

(10) Where a dispute or disagreement has been referred to the Commissioner pursuant to subsection (9), the Commissioner has, in addition to the powers conferred under section 115, the powers —

- (a) to delay or prohibit the transfer of employment of the employee to the dispute from the transferor to the transferee under subsection (1); and

(b) to order that the transfer of employment of the employee to the dispute from the transferor to the transferee under subsection (1) be subject to any terms that the Commissioner considers just.

(11) The designated officer may make regulations that such Officer considers necessary or expedient to give effect to the provisions of this section and, in particular, may make regulations —

- (a) to provide for the form and manner of consultations between the transferor and the affected employees under subsection (5);
- (b) for the type of information that must be communicated by the transferor to the affected employees under subsection (5), or by the transferee to the transferor under subsection (6); and
- (c) to provide for a mechanism for conciliation of disputes arising out of or relating to a transfer mentioned in subsection (1) between any employer and employee.

(12) Nothing in this section prevents a transferee of an undertaking referred to in subsection (1) and an employee whose contract of service is preserved under that subsection from negotiating for and agreeing to terms of service different from those contained in the contract of service that is preserved under that subsection.

(13) In this section —

“affected employee” means any employee of the transferor who may be affected by a transfer under subsection (1) or may be affected by the measures taken in connection with such a transfer;

“transfer” includes the disposition of a business as a going concern and a transfer effected by sale, amalgamation, merger, reconstruction or operation of law;

“undertaking” includes any trade or business.

Offence

19. Any employer who enters into a contract of service contrary to the provisions of this Part shall be guilty of an offence.

PART 3

PAYMENT OF SALARY

Fixation of salary period

20.—(1) An employer may fix periods (called for the purpose of this Act salary periods) in respect of which salary earned is payable.

(2) A salary period must not exceed one month.

(3) In the absence of a salary period so fixed, the salary period is deemed to be one month.

Computation of salary for incomplete month's work

20A.—(1) If a monthly-rated employee has not completed a whole month of service because —

- (a) he or she commenced employment after the first day of the month;
- (b) his or her employment was terminated before the end of the month; or
- (c) he or she took leave of absence without pay for one or more days of the month,
- (d) [Not in use]

the salary due to him or her for that month is to be calculated in accordance with the following formula:

$$\frac{\text{Monthly gross rate of pay}}{\text{Number of days on which the employee is required to work in that month}} \times \text{Number of days the employee actually worked in that month.}$$

(2) In calculating the number of days actually worked by an employee in a month under subsection (1), any day on which an employee is required to work for 5 hours or less under his or her contract of service is regarded as half a day.

Time of payment

21.—(1) Salary earned by an employee under a contract of service, other than additional payments for overtime work, must be paid before the expiry of the 7th day after the last day of the salary period in respect of which the salary is payable.

(2) Additional payments for overtime work must be paid not later than 14 days after the last day of the salary period during which the overtime work was performed.

(3) The total salary due to an employee on completion of his or her contract of service must be paid to him or her on completion of the contract.

Payment on dismissal

22. Subject to the provisions of this Act, the total salary and any sum due to an employee who has been dismissed must be paid on the day of dismissal or, if this is not possible, within 3 days thereafter, not being a rest day or public holiday or other holiday.

Payment on termination by employee

23.—(1) Subject to the provisions of this Act, the total salary due to an employee who terminates his or her contract of service with his or her employer under section 11, or after giving due notice to the employer as required under section 10, must be paid to the employee on the day on which the contract of service is terminated.

(2) Subject to the provisions of this Act, the total salary due to an employee who terminates his or her contract of service without giving prior notice to his or her employer as required under section 10, or, if notice has already been given under that section, but the employee terminates his or her contract of service without waiting for the expiry of the notice, must be paid to the employee before the expiry of the 7th day after the day on which the employee terminates his or her contract of service.

(3) The employer may, subject to any order made by a court or the Commissioner to the contrary, deduct from the salary due to the employee such sum as the employee is liable to pay in lieu of prior notice under section 11(1).

Income tax clearance

24.—(1) Despite sections 22 and 23, no payment of salary or any other sum due to an employee on termination of service is to be made to the employee by the employer without the permission of the relevant officer under any Act pertaining to the collection of tax from income and emoluments.

(2) The employer must immediately give notice of the termination of service to the relevant officer under any Act pertaining to the deduction of tax from income and emoluments and the payment of the salary or other sum due to the employee must not be delayed more than 30 days after the notice has been given to and received by the relevant officer under any Act pertaining to the collection of tax from income and emoluments.

Payment to be made during working hours

25.—(1) Payment of salary must be made on a working day and during working hours at the place of work or at any other place agreed to between the employer and the employee.

(2) Subsection (1) does not apply where the salary is paid into an account with a bank licensed in GMC, being an account in the name of the employee or an account in the name of the employee jointly with one or more other persons.

No unauthorised deductions to be made

26. No deduction is to be made by an employer from the salary of an employee, unless the deduction is authorised by or under any provision of this Act or is required to be made—

(a) by order of a court or other authority competent to make such order;

- (b) pursuant to a declaration made by the relevant officer under any Act pertaining to the collection of tax from income and emoluments or from immovable property that the employer is an agent for recovery of income tax, property tax or goods and services tax (as the case may be) payable by the employee; or
- (c) pursuant to a direction given by the relevant officer under any Act pertaining to the collection of tax from income and emoluments.

Authorised deductions

27.—(1) The following deductions may be made from the salary of an employee:

- (a) deductions for absence from work;
- (b) deductions for damage to or loss of goods expressly entrusted to an employee for custody or for loss of money for which an employee is required to account, where the damage or loss is directly attributable to the employee's neglect or default;
- (c) [Not in use]
- (d) deductions made with the employee's written consent for house accommodation supplied by the employer;
- (e) deductions made with the employee's written consent for such amenities and services supplied by the employer as the Commissioner may authorise;
- (f) any deduction for the recovery of any advance, loan or unearned employment benefit, or for the adjustment of any overpayment of salary;
- (g) [Not in use]
- (h) [Not in use]
- (i) any deduction (other than a deduction mentioned in paragraphs (a) to (f), (j) and (k)) made with the employee's written consent;
- (j) deductions made with the employee's written consent and paid by the employer to any cooperative society registered under any written law for the time being in force in respect of subscriptions, entrance fees, instalments of loans, interest and other dues payable by the employee to such society;
- (k) any other prescribed deductions.

(1A) An employee's written consent for any deduction mentioned in subsection (1)(d), (e), (i) or (j) may be withdrawn by the employee giving written notice of the withdrawal to the employer at any time before the deduction is made.

(1B) An employee cannot be penalised for withdrawing a written consent for any deduction mentioned in subsection (1)(d), (e), (i) or (j).

(2) In subsection (1)(e), “services” does not include the supply of tools and raw materials required for the purposes of employment.

(3) In subsection (1)(f), “employment benefit” —

(a) means any benefit that an employee derives from being employed, other than salary; and

(b) includes (but is not limited to) benefits such as the following:

(i) any annual leave in excess of the annual leave to which the employee is entitled under section 88A;

(ii) any flexible employment benefit (such as an allowance that can be utilised, at the employee’s discretion, for any of certain purposes specified in the employee’s contract of service).

Deductions for absence

28.—(1) Deductions may be made under section 27(1)(a) only on account of the absence of an employee from the place where, by the terms of his or her employment, he or she is required to work, the absence being for the whole or any part of the period during which he or she is so required to work.

(2) The amount of any deduction referred to in subsection (1) must not bear a larger proportion to the salary payable at the gross rate of pay to the employee in respect of the salary period for which the deduction is made than the proportion the period for which the employee was absent bears to the total period within such salary period during which the employee was required to work by the terms of his or her employment; and in the case of a monthly-rated employee the amount of deduction in respect of any one day is the gross rate of pay for one day’s work.

(3) If any employee absents himself or herself from work otherwise than as provided by this Act or by his or her contract of service, the employer may, subject to any order which may be made by a court or by the Commissioner on complaint of either party, deduct from any salary due to the employee the cost of food supplied to him or her during his or her absence.

Deductions for damages or loss

29.—(1) A deduction under section 27(1)(b) must not exceed the amount of the damages or loss caused to the employer by the neglect or default of the employee and, except with the Commissioner’s permission, must not in any case exceed one-quarter (or such other proportion prescribed in substitution by the designated officer) of one month’s wages and must not be made until the employee has been given an opportunity of showing cause against the deduction.

(2) All such deductions and all realisations thereof must be recorded in a register to be kept by the employer in such form as may be prescribed.

Deductions for accommodation, amenity and service

30.—(1) [Not in use]

(2) Any deduction under section 27(1)(d) or (e) must not exceed an amount equivalent to the value of the house accommodation, amenity or service supplied, and the total amount of all deductions under section 27(1)(d) and (e) made from an employee's salary by his or her employer in any one salary period must not in any case exceed one-quarter (or such other proportion prescribed in substitution by the designated officer) of the salary payable to the employee in respect of that period.

(3) In the case of a deduction under section 27(1)(e), the deduction is subject to such conditions as the Commissioner may impose.

Recovery of advances and loans

31.—(1) The recovery of an advance of money made to an employee before the commencement of a contract of service is to begin from the first payment of salary in respect of a completed salary period, but no recovery may be made of any such advance made for travelling expenses.

(2) Advances may be recovered in instalments by deductions from salary spread over not more than 12 months.

(3) An instalment under subsection (2) must not exceed one-quarter (or such other proportion prescribed in substitution by the designated officer) of the salary due for the salary period in respect of which the deduction is made.

(4) Loans may be recovered in instalments by deductions from salary.

(5) An instalment under subsection (4) must not exceed one-quarter (or such other proportion prescribed in substitution by the designated officer) of the salary due for the salary period in respect of which the deduction is made.

Deductions not to exceed prescribed limit

32.—(1) The total amount of all deductions made from an employee's salary by an employer in any one salary period, other than deductions under section 27(1)(a), (f) or (j), must not exceed 50% (or such other percentage prescribed in substitution by the designated officer) of the salary payable to the employee in respect of that period.

(2) Subsection (1) does not apply to deductions made from the last salary due to an employee on termination of his or her contract of service or on completion of his or her contract of service.

Priority of salary to other debts

33.—(1) This section applies —

- (a) to workmen who are in receipt of a salary not exceeding \$500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as the designated officer may prescribe; and
- (b) to every employee (other than a workman) who receives a salary not exceeding \$500 a month (excluding any overtime payment, bonus payment, annual wage supplement, productivity incentive payment and any allowance however described) or such other amount as the designated officer may prescribe.

(2) When, on the application of a person holding a mortgage, charge or lien or of a person who has obtained a judgment or decree, the property of an employer is sold, or any money due to the employer is garnished, the court ordering the sale or garnishment must not distribute the proceeds of the sale or the money to the person entitled thereto unless the court has ascertained and paid the salary due to all the employees employed by that employer and to all employees engaged by a contractor or subcontractor and working for that employer.

(3) This section applies only —

- (a) to property on which those employees were or are working;
- (b) where the property sold was or is the produce of the work of those employees;
- (c) where the property sold is movable property used or being used by those employees in the course of their work; or
- (d) to money due to the employer in respect of work done by those employees.

(4) The amount payable to each such employee under subsection (2) must not exceed 5 months' salary.

(5) [Not in use]

(6) [Not in use]

(7) In this section, “employees” is deemed to include subcontractors for labour and “salary” is deemed to include money due to a subcontractor for labour.

Offence

34.—(1) Any employer who fails to pay salary in accordance with the provisions of this Part shall be guilty of an offence.

(2) Any employer who is guilty of an offence under subsection (1) for contravening section 21, 22 or 23 shall be liable on conviction —

- (a) to a fine of not less than \$3,000 and not more than \$15,000 or to imprisonment for a term not exceeding 6 months or to both; and
- (b) if the employer is a repeat offender, to a fine of not less than \$6,000 and not more than \$30,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) For the purposes of subsection (2), a person is a repeat offender in relation to an offence under subsection (1) if the person who is convicted or found guilty of an offence under subsection (1) of contravening section 21, 22 or 23 (called the current offence) has been convicted or found guilty of an offence of contravening section 21, 22 or 23 on at least one other occasion before the date on which the person is convicted or found guilty of the current offence.

PART 4

REST DAYS, HOURS OF WORK AND OTHER CONDITIONS OF SERVICE

Application of this Part to certain workmen and other employees

35. The provisions of this Part apply —

- (a) to workmen who are in receipt of a salary not exceeding \$500 a month (excluding overtime payments, bonus payments, annual wage supplements, productivity incentive payments and any allowance however described) or such other amount as the designated officer may prescribe; and
- (b) to every employee (other than a workman) who receives a salary not exceeding \$500 a month (excluding any overtime payment, bonus payment, annual wage supplement, productivity incentive payment and any allowance however described) or such other amount as the designated officer may prescribe.

Rest day

36.—(1) Every employee must be allowed in each week a rest day without pay of one whole day which must be Sunday or such other day as the employer may determine from time to time.

(2) The employer may substitute any continuous period of 30 hours as a rest day for an employee engaged in shift work.

(3) Where in any week a continuous period of 30 hours commencing at any time before 6 p.m. on a Sunday is substituted as a rest day for an employee engaged in shift work, the rest day is deemed to have been granted within the week even though the period of 30 hours ends after the week.

(4) Where an employee's rest day is determined by his or her employer, the employer must prepare or cause to be prepared a roster before the commencement of the month in which the rest days fall informing the employee of the days appointed to be his or her rest days in the month.

Work on rest day

37.—(1) Subject to section 38(2) or 40(2A), an employee must not be compelled to work on a rest day unless he or she is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

(1A) In the event of any dispute, the Commissioner has power to decide whether or not an employee is engaged in work which by reason of its nature requires to be carried on continuously by a succession of shifts.

(2) An employee who at his or her own request works for an employer on a rest day must be paid for that day —

- (a) if the period of work does not exceed half the employee's normal hours of work, a sum at the basic rate of pay for half a day's work;
- (b) if the period of work is more than half but does not exceed the employee's normal hours of work, a sum at the basic rate of pay for one day's work; or
- (c) if the period of work exceeds the employee's normal hours of work for one day —
 - (i) a sum at the basic rate of pay for one day's work; and
 - (ii) a sum at the rate of not less than one and a half times the employee's hourly basic rate of pay for each hour or part thereof that the period of work exceeds the employee's normal hours of work for one day.

(3) An employee who at the request of his or her employer works on a rest day must be paid for that day —

- (a) if the period of work does not exceed half the employee's normal hours of work, a sum at the basic rate of pay for one day's work;
- (b) if the period of work is more than half but does not exceed the employee's normal hours of work, a sum at the basic rate of pay for 2 days' work; or
- (c) if the period of work exceeds the employee's normal hours of work for one day —
 - (i) a sum at the basic rate of pay for 2 days' work; and

- (ii) a sum at the rate of not less than one and a half times the employee's hourly basic rate of pay for each hour or part thereof that the period of work exceeds the employee's normal hours of work for one day.

(3A) In this section —

- (a) “normal hours of work” means the number of hours of work (not exceeding the limits applicable to an employee under section 38 or 40, as the case may be) that is agreed between an employer and an employee to be the usual hours of work per day; or in the absence of any such agreement, is deemed to be 8 hours a day; and
- (b) an employee's “hourly basic rate of pay” is to be calculated in the same manner as for the purpose of calculating payment due to an employee under section 38 for working overtime.

(4) Subsection (3) does not apply to any employee who is employed by the GMCA or a statutory body in any of the essential services as prescribed by the GMCA, but any such employee who at the request of his or her employer works on a rest day or part thereof must be given a day or part of a day off (as the case may be) in substitution for such a rest day or part thereof.

Hours of work

38.—(1) Except as hereinafter provided, an employee must not be required under his or her contract of service to work —

- (a) more than 6 consecutive hours without a period of leisure;
- (b) more than 8 hours in one day or more than 44 hours in one week;

Provided that —

- (c) an employee who is engaged in work which must be carried on continuously may be required to work for 8 consecutive hours inclusive of a period or periods of not less than 45 minutes in the aggregate during which he or she must have the opportunity to have a meal;
- (d) where, by agreement under the contract of service between the employee and the employer, the number of hours of work on one or more days of the week is less than 8, the limit of 8 hours in one day may be exceeded on the remaining days of the week, but so that no employee is required to work for more than 9 hours in one day or 44 hours in one week;
- (e) where, by agreement under the contract of service between the employee and the employer, the number of days on which the employee is required to work in a week is not more than 5 days, the limit of 8 hours in one day may be

exceeded but so that no employee is required to work more than 9 hours in one day or 44 hours in one week; and

(f) where, by agreement under the contract of service between the employee and the employer, the number of hours of work in every alternate week is less than 44, the limit of 44 hours in one week may be exceeded in the other week, but so that no employee is required to work for more than 48 hours in one week or for more than 88 hours in any continuous period of 2 weeks.

(2) An employee may be required by his or her employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of —

- (a) accident, actual or threatened;
- (b) work, the performance of which is essential to the life of the community;
- (c) work essential for defence or security;
- (d) urgent work to be done to machinery or plant;
- (e) an interruption of work which it was impossible to foresee; or
- (f) work to be performed by employees in any industrial undertaking essential to the economy of GMC or any of the essential services as prescribed by the GMCA.

(3) In the event of any dispute, the Commissioner has power to decide whether or not the employer is justified in calling upon the employee to work in the circumstances specified in subsection (2)(f).

(4) If an employee at the request of the employer works —

- (a) more than 8 hours in one day except as provided in paragraphs (d) and (e) of the proviso to subsection (1), or more than 9 hours in one day in any case specified in those paragraphs; or
- (b) more than 44 hours in one week except as provided in paragraph (f) of the proviso to subsection (1), or more than 48 hours in any one week or more than 88 hours in any continuous period of 2 weeks in any case specified in that paragraph,

the employee must be paid for the extra work at the rate of not less than one and a half times the employee's hourly basic rate of pay irrespective of the basis on which the employee's rate of pay is fixed.

(5) An employee must not be permitted to work overtime for more than 72 hours a month.

(6) For the purpose of calculating under subsection (4) the payment due for overtime to an employee referred to in the first column of the Fourth Schedule, the employee's hourly basic rate of pay is to be determined in accordance with the second column of the Fourth Schedule.

(7) The designated officer may make regulations for the purpose of calculating the payment due for overtime to an employee employed on piece rates.

(8) Except in the circumstances described in subsection (2)(a), (b), (c), (d) and (e), an employee must not under any circumstances work for more than 12 hours in any one day.

(9) This section does not apply to employees engaged in the fire services or in work which by its nature involves long hours of inactive or stand-by employment.

Task work

39. Nothing in this Part prevents any employer from agreeing with any employee that the employee's salary be paid at an agreed rate in accordance with the task, that is, the specific amount of work required to be performed, and not by the day or by the piece.

Shift workers, etc.

40.—(1) Despite section 38(1), an employee who is engaged under his or her contract of service in regular shift work or who has otherwise consented in writing to work in accordance with the hours of work specified in this section may be required to work more than 6 consecutive hours, more than 8 hours in any one day or more than 44 hours in any one week but the average number of hours worked over any continuous period of 3 weeks must not exceed 44 hours per week.

(2) No consent given by an employee under this section is valid unless this section and section 38 have been explained to the employee and the employee has been informed of the times at which the hours of work begin and end, the number of working days in each week and the weekly rest day.

(2A) An employee to whom this section applies may be required by his or her employer to exceed the limit of hours prescribed in subsection (1) and to work on a rest day, in the case of—

- (a) accident, actual or threatened;
- (b) work, the performance of which is essential to the life of the community;
- (c) work essential for defence or security;
- (d) urgent work to be done to machinery or plant;
- (e) an interruption of work which it was impossible to foresee; or

(f) work to be performed by employees in any industrial undertaking essential to the economy of GMC or any of the essential services as prescribed by the GMCA

(3) Except in the circumstances described in subsection (2A)(a), (b), (c), (d) and (e), an employee to whom this section applies must not under any circumstances work for more than 12 hours in any one day.

(4) Section 38(4) does not apply to any employee to whom this section applies, but any such employee who at the request of his or her employer works more than an average of 44 hours per week over any continuous period of 3 weeks must be paid for the extra work in accordance with section 38(4).

Interpretation of “week” for purposes of sections 36, 38 and 40

41. In sections 36, 38 and 40, “week” means a continuous period of 7 days commencing at midnight on Sunday.

Power to exempt

41A.—(1) The Commissioner may, after considering the operational needs of the employer and the health and safety of the employee or class of employees, by written order exempt an employee or any class of employees from sections 38(1), (5) and (8) and 40(3) subject to such conditions as the Commissioner thinks fit.

(2) The Commissioner may, after considering the operational needs of an employer and the interests of an employee or a class of employees, by written order, direct that the entitlement to be paid for extra work under section 37(2) or (3), 38(4), 40(4) or 88(4) does not apply to that employee or class of employees, subject to such conditions as the Commissioner thinks fit.

(3) Where the Commissioner —

(a) exempts an employee or any class of employees from section 38(1), (5) or (8) or 40(3); or

(b) directs that the entitlement to be paid for extra work under section 37(2) or (3), 38(4), 40(4) or 88(4) does not apply to an employee or any class of employees,

the employer must display the order or a copy thereof conspicuously in the place where the employee or class of employees are employed.

42. [Not in use]

43. [Not in use]

44. [Not in use]

Payment of retrenchment benefit

45. No employee who has been in continuous service with an employer for less than 2 years is entitled to any retrenchment benefit on his or her dismissal on the ground of redundancy or by reason of any reorganisation of the employer's profession, business, trade or work.

Retirement benefit

46. No employee who has been in continuous service with an employer for less than 5 years is entitled to any retirement benefit on the cessation of his or her service with the employer.

47. [Not in use]

Payment of annual wage supplement or other variable payment

48.—(1) Where a contract of service provides for the payment by the employer of any annual wage supplement, annual bonus or annual wage increase, the payments continue to be payable by the employer until the employer and the employer's employees have negotiated and agreed to vary the payments.

(2) An employer and the employer's employees may negotiate for and agree to a variable payment based on the trading results or productivity or on any other criteria agreed upon by the parties concerned.

(3) [Not in use]

(4) [Not in use]

(5) Even though an annual wage supplement may be payable under subsection (1), an employer may, in the event of exceptionally poor business results for any year, invite the employees to negotiate for a lower quantum of annual wage supplement or for no annual wage supplement to be paid for that year.

Power of designated officer to make recommendations for wage adjustments

49. The designated officer may make recommendations for wage adjustment, and upon the publication of the recommendations in the *Gazette* the employer and the employer's employees may negotiate based on those recommendations.

Interpretation for purposes of sections 48 and 49

50.—(1) [Not in use]

(2) In sections 48 and 49 —

“annual wage supplement” means a single annual payment to employees that is supplemental to the total amount of annual wages earned by them, whether expressed as a percentage thereof or otherwise;

“variable payment” means such payment, however expressed and whether paid annually or otherwise, which serves as an incentive to all employees to increase their productivity or as a reward for their contribution;

“wages” means the basic wages payable to an employee in respect of work done under his or her contract of service but does not include any commission, overtime allowance or other allowances payable to an employee.

51. [Not in use]

Power to suspend application of this Part

52. The designated officer may, by notification in the *Gazette*, suspend the application of any of the provisions of this Part to any classes of employees when the public interest so requires it.

Offence

53. Any employer who employs any person as an employee contrary to the provisions of this Part or fails to pay any salary in accordance with the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

PART 5

TRUCK SYSTEM

Agreements to pay salary otherwise than in legal tender or approved mutually agreed manner illegal

54. —(1) The following are salary payment methods applicable to workmen —

- (a) where a workman receives a salary not exceeding \$500 a month, the salary must be payable in legal tender or if mutually agreed between the workman and employer in writing, in a manner the designated officer may approve; or
- (b) where a workman receives a salary exceeding \$500 a month, the salary must be payable in legal tender, or in a manner mutually agreeable between the workman and employer in writing,

and not otherwise and if in any contract of service the whole or any part of the salary is made payable in any other manner the contract of service is illegal and void.

Agreements as to place and manner, etc., of spending salary illegal

55. A contract of service must not contain any terms as to the place at which, or the manner in which, or the person with whom, any salary paid to the workman is to be expended and every contract of service containing such terms is illegal and void.

Salary to be paid entirely in legal tender

56. Except where otherwise expressly permitted by the provisions of this Act, the entire amount of the salary earned by, or payable to, any workman in respect of any work done by him or her must be actually paid to him or her in legal tender, and every payment of, or on account of, any such salary made in any other form is illegal and void.

Recovery of salary not paid in legal tender

57. Every workman is entitled to recover in any court or before the Commissioner, acting under section 115, so much of his or her salary exclusive of sums lawfully deducted in accordance with the provisions of this Act as has not been actually paid to him or her in legal tender or, in lieu of legal tender if mutually agreed in writing between the workman and employer and approved by the designated officer.

Interest on advances forbidden

58. An employer must not make any deduction by way of discount, interest or any similar charge on account of any advance of salary made to any workman.

Remuneration other than salary

59. Nothing in this Part renders illegal a contract of service with a workman for giving to the workman food, quarters or other allowances or privileges in addition to money salary as a remuneration for the workman's services, but an employer must not give to a workman any noxious drugs or intoxicating liquor by way of remuneration.

Shops and canteens

60.—(1) Nothing in this Part prevents the employer from establishing or permitting to be established a shop or a canteen for the sale of foodstuffs, provisions, meals or refreshments; but a workman must not be compelled by any contract of service to purchase any goods at that shop or canteen, and noxious drugs and intoxicating liquor must not be sold at any such shop or canteen.

(2) An employer must not establish or keep or permit to be established or kept, a shop or canteen on any place of employment for the sale of foodstuffs, provisions, meals or refreshments to the employer's workmen otherwise than in accordance with subsection (1).

Offence

61. Any employer who enters into any contract of service or gives any remuneration for service contrary to the provisions of this Part or declared by this Part to be illegal or receives any payment from any workman contrary to the provisions of this Part or contravenes section 60(2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

62. [Not in use]

Payment of salary through bank

63.—(1) Nothing in section 54 or 56 operates so as to render unlawful or invalid any payment of salary by the employer to the workman in any of the following ways:

- (a) payment into an account at a bank licensed in GMC, being an account in the name of the workman or an account in the name of the workman jointly with one or more other persons;
- (b) payment by cheque made payable to or to the order of the workman;
- (c) if the workman has consented to receive his salary other than in legal tender, where the manner of payment is agreed between the workman and employer in writing and approved by the designated officer, payment in a way suitable for that manner of payment provided that workman has consented in writing to that way of payment.

(2) Where the salary or part thereof has been paid in any of the ways set out in subsection (1), section 57 does not operate to give a right of recovery of so much of the salary as has been so paid.

Limitations on application of this Part

64. Nothing in this Part applies to any body of persons working on an agreement of cooperation.

PART 6

CONTRACTORS AND CONTRACTING

Liability of principals, contractors and subcontractors for salary of workman

65.—(1) Where a principal, in the course of or for the purposes of or in pursuance of or in furtherance of the interests of the principal's trade or business, contracts with a contractor for the supply of labour or for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, and any salary is due to any workman by the contractor or any subcontractor under the contractor for labour supplied or for work done in the course of the execution of such work, the principal and the contractor and any such subcontractor (not being the employer) are jointly and severally

liable with the employer to pay the workman as if the workman had been immediately employed by the principal, and where salary is claimed from the principal, this Act (with the exception of section 33 relating to priority of salary) applies as if reference to the principal were substituted for reference to the employer, except that salary claimed is to be calculated with reference to the salary of the workman under the employer by whom the workman is immediately employed.

(1A) No principal, contractor or subcontractor, not being the employer, is jointly and severally liable to any workman under subsection (1) for more than the salary earned in one month for work done by the employer.

(1B) In the case of a contract for constructional work, the principal is not liable for the payment of salary under subsection (1) unless the principal is also a constructional contractor.

(1C) [Not in use]

(2) A workman who wishes to recover any salary from a person liable under this section for the salary must, before lodging a claim for the salary under section 13 of the Employment Claims Act 2016, submit to the Commissioner, under section 3(1) of that Act, a mediation request for the mediation under Part 2 of that Act of every dispute for which the claim will be lodged.

(2A) The workman must submit the mediation request to the Commissioner within 60 days after the date on which the salary becomes due for payment in accordance with Part 3.

(2B) The Commissioner may extend the period under subsection (2A) within which the workman must submit the mediation request to the Commissioner.

(2C) However, if a workman has lodged, before 1 April 2017, a claim under section 119 for any salary against a person liable under this section for the salary —

- (a) subsections (2), (2A) and (2B) do not apply to the recovery of the salary under that claim; and
- (b) instead, the repealed section 65(1C) and (2) as in force immediately before 1 April 2017 continues to apply to the recovery of the salary under that claim.

(2) [Not in use]

(2A) [Not in use]

(2B) [Not in use]

(2C) [Not in use]

(3) Nothing in this section prevents any principal or contractor or subcontractor, not being the employer, who as the result of a claim made under this section has paid any

salary to a workman, from instituting civil proceedings for the recovery of the amount of salary so paid from the employer of that workman.

(4) Nothing in this section prevents a workman from recovering salary under this Act from his or her employer instead of the principal or contractor or subcontractor.

(5) The reference to principal in this section includes a reference to the GMCA or a statutory body or authority acting in the course of or in the discharge of its functions.

Registration of contractors and subcontractors

66.—(1) The designated officer may, by notification in the *Gazette*, require all contractors and subcontractors to be registered with the Commissioner and thereafter a person must not act as a contractor or a subcontractor unless the person is so registered.

(2) Every application for such registration must be in the prescribed form.

(3) Every person so registered under this section as a contractor or subcontractor is deemed to be the employer of the workmen employed by that person.

(4) Every contractor or subcontractor who has been so registered and who changes the name under which that contractor or subcontractor carries on business must within 7 days of the change of name apply in writing to the Commissioner for re-registration and cancellation of the previous registration.

(5) The Commissioner may effect the registration of any person under this section and may cancel any such registration.

(6) The designated officer may make regulations to prescribe the requirements and conditions for registration of a contractor or subcontractor under this section.

(7) Any person who contravenes this section shall be guilty of an offence.

PART 6A

PART-TIME EMPLOYEES

Part-time employees

66A.—(1) In this Part, “part-time employee” means an employee who is required under his or her contract of service with an employer to work for less than 35 hours a week.

(2) Despite subsection (1), the designated officer may, by notification in the *Gazette*, declare that any employee or class of employees are not to be regarded as part-time employees for the purposes of this Part.

Designated officer may exclude or modify Act in relation to part-time employees

66B. The designated officer may by regulations exclude or modify any or all of the provisions of this Act in their application to any part-time employee or class of part-time employees.

PART 7

DOMESTIC WORKERS

Designated officer may apply Act to domestic workers

67. The designated officer may, by notification in the *Gazette*, apply all or any of the provisions of this Act with such modification as may be set out in the notification to all domestic workers or to any group, class or number of domestic workers and may make regulations to provide generally for the engagement and working conditions of domestic workers.

PART 8

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

Interpretation of this Part

67A. In this Part —

“child” means a person who has not completed his or her 15th year of age;

“young person” means a person who has completed his or her 15th year of age but who has not completed his or her 16th year of age.

Restriction on employment of children

68.—(1) A person must not employ a child in an industrial or a non-industrial undertaking except as provided for in subsections (2) and (3).

(2) A child may be employed in an industrial undertaking in which only members of the same family are employed.

(3) A child who is 13 years of age or above may be employed in light work suited to his or her capacity in a non-industrial undertaking.

(4) For the purposes of subsection (3), the certificate of a medical officer is conclusive upon the question of whether any work is suited to the capacity of any particular child.

Restriction on employment of young persons

69. A young person must not be employed in any industrial undertaking which the designated officer by notification in the *Gazette* declares to be an industrial undertaking in which a young person must not be employed.

Conditions of employment

70. The designated officer may by regulations made under this Act prescribe the conditions upon which a child or young person may be employed in any industrial or non-industrial undertaking.

Minimum rates of salary may be prescribed

71.—(1) If it is shown to the satisfaction of the designated officer, upon the application of the Commissioner and after such inquiry as the designated officer may direct, that the salaries of children or young persons, or both, employed in any industry or for any particular work or in any area are insufficient, having regard to the nature of the work and the conditions of employment, it is lawful for the designated officer to prescribe, by order in the *Gazette*, minimum rates of salary to be paid to children or young persons or both in that industry, type of employment or area.

(2) Any person contravening any such order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

Approved employment

72.—(1) Sections 68 and 69 do not apply —

(a) to the employment of children and young persons —

- (i) in work approved and supervised by the GMCA or any institution approved by the GMCA; and
- (ii) carried on in any technical, vocational or industrial training school or institute; and

(b) to the employment of young persons under any apprenticeship programme approved and supervised by the GMCA or any institution approved by the GMCA.

(2) [Not in use]

Regulations regulating employment

73. The GMCA or any institution approved by the GMCA may make regulations for regulating the employment of children in any occupation and a child or young person must not be employed as a workman under any circumstances or under any conditions which may be prohibited by the GMCA or any institution approved by the GMCA by regulations made under this Act.

Offence

74. Any person who employs a child or young person in contravention of the provisions of this Part or any of the regulations made under this Part and any parent or guardian who knowingly or negligently suffers or permits such employment shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both, except in the case where a child or young person suffers serious injury or death resulting from any breach of the provisions of this Part or any regulations made under this Part the offender shall be punished with a fine of \$5,000 and shall also be liable to imprisonment for a term not exceeding 2 years.

75. [Not in use]

PART 9

MATERNITY PROTECTION, PATERNITY PROTECTION, AND BENEFITS AND CHILDCARE LEAVE FOR PARENT

Length of benefit period

76.—(1) Subject to this section, every female employee is entitled to absent herself from work —

- (a) during —
 - (i) the period of 4 weeks immediately before her confinement; and
 - (ii) the period of 8 weeks immediately after her confinement;
- (b) during a period of 12 weeks, as agreed to by her and her employer, commencing —
 - (i) not earlier than 28 days immediately preceding the day of her confinement; and
 - (ii) not later than the day of her confinement; or
- (c) during —
 - (i) a period of 8 weeks, as agreed to by her and her employer, commencing —
 - (A) not earlier than 28 days immediately preceding the day of her confinement; and
 - (B) not later than the day of her confinement; and
 - (ii) one or more than one period each of such duration as agreed between the employee and her employer but in aggregate no shorter than as reckoned in accordance with the Fifth Schedule or 24 days, whichever

is the lower, all of which must be taken within the period of 12 months commencing on the day of her confinement.

and for that period of her absence from work, she is entitled to receive payment from her employer at her gross rate of pay.

(1A) *[Not in use]*

(2) *[Not in use]*

(2A) *[Not in use]*

(2B) A female employee who delivers a child —

(a) on or after the commencement of this provision; or

(b) before the commencement of this provision but whose estimated delivery date for her confinement in respect of that child (as certified by a medical practitioner) is on or after that date,

is not entitled to any pay during the benefit period if she has not served her employer for a period of at least 3 months preceding the day of her confinement.

(3) Where a female employee has worked in her employment for any day during the benefit period before her confinement, she is entitled to receive in addition to her gross rate of pay for that day an amount that is equivalent to a day's pay at the gross rate of pay or to absent herself from work on another day at the end of the benefit period.

(4) *[Not in use]*

(5) *[Not in use]*

(5A) Where the employment of a female employee is terminated because she resigns before she has exercised, wholly or partly, her entitlement to absent herself from work during a period mentioned in subsection (1)(a), (b) or (c), she forfeits the following upon termination of her employment:

(a) that entitlement (or the balance of that entitlement) to absent herself from work;

(b) the entitlement under this section (if any) to receive payment from her employer at her gross rate of pay in respect of the forfeited period of absence from work under paragraph (a).

(6) Where the employment of a female employee is terminated (whether by dismissal, upon the completion of her contract of service, or for any reason other than by resignation) before she has exercised, wholly or partly, her entitlement to absent herself from work during a period referred to in subsection (1)(c)(ii), she forfeits that entitlement (or the balance thereof) upon the termination of her employment.

Length of benefit period, etc., in respect of paternity leave

76A—(1) Subject to subsection (5) and any regulations made under section 139, every male employee, who is the natural father of a child and who satisfies the requirements of section 76B(1) is entitled to absent himself from work on paternity leave for —

(a) the following period, which must be taken within 16 weeks commencing on the date of the child's birth:

(i) a period of 10 days;

(ii) *[Not in use]*

(b) one or more than one period, where —

(i) the duration of each period is agreed between the employee and his employer;

(ii) the duration of the period (if only one), or the aggregate duration of all the periods (if more than one), is equal to —

(A) a period of 10 days,

(B) *[Not in Use]*

(iii) the period or all the periods (as the case may be) must be taken within 12 months commencing on the date of the child's birth.

(1A) A male employee mentioned in subsection (1) who is the natural father of a child must —

(a) give to his employer a notice of at least the prescribed period (or any shorter period agreed between the employee and employer) before absenting himself from work under subsection (1)(a)(i), unless the employee is prevented by any sufficient cause from doing so; and

(b) specify in the notice given under paragraph (a) the date on which the employee intends to commence absenting himself from work under subsection (1)(a)(i).

(2) An employer must grant a male employee his entitlement to paternity leave in accordance with this Act and pay the employee who is entitled to such leave his gross rate of pay for every day of such leave that is taken by the employee.

(3) Where the employment of a male employee is terminated (whether by resignation or dismissal, upon the completion of his contract of service, or for any other reason) before he has exercised, wholly or partly, his entitlement to absent himself from work on paternity leave, he forfeits the following upon the termination of his employment:

- (a) the entitlement (or the balance of that entitlement) to absent himself from work on paternity leave;
- (b) the entitlement to receive payment from his employer at his gross rate of pay in respect of the forfeited period of absence from work under paragraph (a).

(4) [Not in use]

(5) [Not in use]

(6) When a male employee absents himself from work in accordance with this section, it is not lawful for his employer to give him a notice of dismissal during his absence or on such a day that the notice will expire during his absence.

(6A) Any employer who acts in contravention of subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(7) Any employer who fails, without reasonable cause, to grant paternity leave to a male employee who is entitled to and requests for such leave shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(8) Any employer who fails to pay a male employee in accordance with this section and section 76B shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(9) [Not in use]

(10) Where an employer who is convicted or found guilty of an offence under subsection (6A), (7) or (8) is a repeat offender, the employer shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(11) For the purposes of subsection (10), a person is a repeat offender in relation to an offence under subsection (6A), (7) or (8) if the person who is convicted or found guilty of an offence under subsection (6A), (7) or (8) (called the current offence) has been convicted or found guilty of an offence under subsection (6A), (7) or (8) on at least one other occasion before the date on which the person is convicted or found guilty of the current offence.

(12) This section (except for subsections (1)(a)(i) and (b)(ii)(A) and section 76B apply in relation to the natural father of a stillborn child as they apply to the natural father of a child born alive.

Eligibility criteria and cap in respect of paternity leave benefits

76B—(1) A male employee who is the natural father of a child is entitled to absent himself from work on paternity leave and to payment under section 76A(1) and (2) if—

(a) the mother's confinement in respect of the child occurs, or the estimated delivery date for that confinement is, on or after the commencement of this provision;

(b) [Not in use]

(c) the child's mother —

(i) is lawfully married to the child's natural father at the time the child is conceived;

(ii) becomes lawfully married to the child's natural father after the child is conceived but before the child's birth, whether or not such marriage remains subsisting at the time of the child's birth; or

(iii) is not lawfully married to the child's natural father at the time the child is conceived or at any time after the child is conceived but before the child's birth, but becomes lawfully married to the child's natural father within the period of 12 months commencing on the date of the child's birth; and

(d) in the case of a male employee, he has served the employer for a period of at least 3 months preceding the date of the child's birth.

(e) [Not in use]

(1A) To avoid doubt, where a male employee is the natural father of a child, his entitlement under section 76A(1) and (2) (as the case may be) applies only once for each confinement of the child's mother, regardless of the number of children born or stillborn during that confinement.

(2) [Not in use]

(3) [Not in use]

(4) [Not in use]

(4A) [Not in use]

(4B) [Not in use]

(5) [Not in use]

(6) This section and section 76A must not be construed as derogating from any other benefits that a male employee is entitled to, during the period in which he is entitled to

paternity leave and to payment for such leave, under the terms of his contract of service or under any written law.

Payments to include holidays, etc.

77.—(1) The payment referred to in section 76 must be paid for every day of the benefit period, including holidays, but not any day during the benefit period on which the female employee takes no-pay leave.

(2) Nothing in this section requires an employer to pay to a female employee an extra day's salary for a holiday which falls within the benefit period.

When payment is to be made

78.—(1) In the case of a female employee who is a daily-rated employee, the payment referred to in section 76 must be paid in 2 instalments, the first for the period up to and including the day of confinement, to be paid within 7 days from the date of confinement, and the second, for the period after confinement, to be paid within 7 days from the end of that period.

(2) In the case of any other female employee, the payment must be paid at such time as the salary earned by the employee under her contract of service is due to be paid to her.

Payment of benefit on death of female employee before confinement

79.—(1) If a female employee, after giving notice to her employer under section 80(1), abstains from work in expectation of her confinement and dies from any cause before her confinement, the employer must pay to the person nominated by her under section 80(4) or, if there is no such person, to her personal representative a sum of money at the rate prescribed under section 76 from the date immediately following the last day on which she worked to the day immediately preceding the day of her death and except in the circumstances mentioned in this subsection no employer is liable to pay any sum in respect of a period exceeding 30 days.

(2) If a female employee dies from any cause on or after the day of her confinement and before any payment to which she is entitled has been paid to her, the employer must pay to the person nominated by her under section 80(4) or, if there is no such person, to her personal representative any sum of money to which she was on the date of her death entitled in respect of the period up to the day of confinement and in respect of the period after confinement up to the day immediately preceding the day of her death.

Notice of confinement

80.—(1) A female employee must, at least one week before absenting herself from work in accordance with section 76, give notice to her employer specifying the date on which she intends to commence absenting herself from work.

(2) A female employee who has been confined must, as soon as practicable, inform her employer of the date on which she was confined.

(3) Any female employee who omits to give notice as required under subsection (1) or fails to inform her employer as required under subsection (2) is entitled to only half the amount of any payment to which she is entitled to under this Part unless she was prevented by any sufficient cause from giving the notice.

(4) A female employee may at any time in writing nominate some other person to whom any payment to which she is entitled under this Part may be paid on her behalf; and any such payment made to the person so nominated is deemed, for the purpose of this Act, to be payment to the female employee who nominated the person.

Dismissal during absence prohibited

81. Without affecting sections 84 and 84A, when an employee absents his or herself from work in accordance with the provisions of this Part it is not lawful for his or her employer to give him or her notice of dismissal during his or her absence or on such a day that the notice will expire during his or her absence.

Employment after confinement

82. Any employer who knowingly employs a female employee at any time during the period of 4 weeks immediately following her confinement shall be guilty of an offence.

Forfeiture of payment

83. If an employee works for any other employer after he or she has absented his or herself from work under the provisions of this Part, he or she forfeits his or her claim to any payment to which he or she is entitled under this Part and is liable to dismissal.

Right to benefit unaffected by notice of dismissal given without sufficient cause

84.—(1) Without affecting sections 81 and 84A, a notice of dismissal given without sufficient cause by an employer to a female employee which —

(a) if given before the commencement of this provision, is given —

(i) within a period of 6 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or

(ii) within a period of 6 months preceding the date of her confinement;

(b) if given on or after the commencement of this provision, is given at any time of her pregnancy (as certified by a medical practitioner before the notice of dismissal is given), where the female employee has served the employer for a period of 3 months or more immediately preceding the day the notice is given; or

(c) if given on or after the commencement of this provision but before 3 months after the commencement of this provision and where the female employee has served the employer for a period of less than 3 months, is given —

- (i) within a period of 6 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
- (ii) within a period of 6 months preceding the date of her confinement,

does not have the effect of depriving her of any payment to which, but for that notice, she would have been entitled or would, on or before the date of her confinement, have become entitled to under this Part.

(1A) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) is the estimated delivery date —

- (a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and
- (b) the date of such certification of which is closest to the date the notice of dismissal is given.

(2) [Not in use]

(3) [Not in use]

Right to benefit unaffected by notice of dismissal given on ground of redundancy or by reason of reorganisation of employer's profession, business, trade or work

84A.—(1) Without affecting sections 81 and 84, a notice of dismissal given to a female employee by her employer on the ground of redundancy or by reason of any reorganisation of her employer's profession, business, trade or work

- (a) if given before the commencement of this provision, is given —
 - (i) within a period of 3 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
 - (ii) within a period of 3 months preceding the date of her confinement;
- (b) if given on or after the commencement of this provision, is given at any time of her pregnancy (as certified by a medical practitioner before the notice of dismissal is given), where the female employee has served the employer for a period of 3 months or more immediately preceding the day the notice is given; or

(c) if given on or after the commencement of this provision but before 3 months after the commencement of this provision and where the female employee has served the employer for a period of less than 3 months, is given —

- (i) within a period of 3 months preceding the estimated delivery date for her confinement (as certified by a medical practitioner); or
- (ii) within a period of 3 months preceding the date of her confinement,

does not have the effect of depriving her of any payment to which, but for that notice, she would have been entitled or would, on or before the date of her confinement, have become entitled to under this Part.

(2) In any case where there are 2 or more estimated delivery dates (each certified by a medical practitioner) for the confinement of a female employee, the estimated delivery date that is relevant for the purposes of subsection (1) is the estimated delivery date —

- (a) which is certified by a medical practitioner before the notice of dismissal is given by her employer; and
- (b) the date of such certification of which is closest to the date the notice of dismissal is given.

(3) The payment referred to in subsection (1) is in addition to any retrenchment benefit or other payment to which the female employee is entitled under the terms of her contract of service or under any other written law.

85. [Not in use]

Contracting out

86. Any contract of service whereby an employee relinquishes any right to paternity or maternity benefit under this Part is void insofar as it purports to deprive him or her of that right or to remove or reduce the liability of any employer to make any payment under this Part.

Offences and penalties

87.—(1) Any employer who —

- (a) fails, without reasonable cause, to grant maternity leave under this Part to a female employee who is entitled to and requests for the leave;
- (b) fails to pay the employer's female employee in accordance with any of the provisions of this Part (other than section 87A); or
- (c) acts in contravention of section 81,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Any employer who is guilty of an offence under section 82 shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) Where an employer who is convicted or found guilty of an offence under subsection (1)(a), (b) or (c) or section 82 is a repeat offender, the employer shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(4) For the purposes of subsection (3), a person is a repeat offender in relation to an offence under subsection (1)(a), (b) or (c) , or (1B) (a), (b) or (c), or section 82 if the person who is convicted or found guilty of an offence under subsection (1)(a), (b) or (c), or (1B) (a), (b) or (c), or section 82 (called the current offence) has been convicted or found guilty of —

(a) an offence under subsection (1)(a), (b) or (c) , or (1B) (a), (b) or (c), or section 82;

(b) *[Not in use]*

on at least one other occasion before the date on which the person is convicted or found guilty of the current offence.

Childcare leave for parent

87A.—(1) Subject to subsection (2), where any employee —

(a) has served an employer for a period of not less than 3 months; and

(b) has any child below 7 years of age at any time during any relevant period,

the employee is entitled to childcare leave of 2 days for that relevant period.

(2) An employee —

(a) is not entitled to more than 14 days of childcare leave in respect of any child; and

(b) must —

(i) take his or her first entitlement of childcare leave of 2 days for a relevant period in that relevant period or the next succeeding relevant period; and

(ii) then take his or her next and each subsequent entitlement of childcare leave of 2 days for a relevant period in the next succeeding relevant period and in each subsequent succeeding relevant period, respectively.

(3) The childcare leave is in addition to the rest days, holidays, annual leave and sick leave to which an employee is entitled under sections 36, 88, 88A and 89, respectively.

(4) An employer must grant, and an employee who is entitled to childcare leave must take, the entitlement of childcare leave of 2 days for a relevant period not later than the last day of that relevant period, and any employee who fails to take that leave by that day —

(a) thereupon ceases to be entitled to that leave; and

(b) is not entitled to any payment in lieu thereof.

(5) An employer must pay an employee who is entitled to childcare leave his or her gross rate of pay for every day of such leave that is taken by the employee.

(5A) Despite subsection (5), an employee is not entitled to take paid childcare leave on a day the employee takes no-pay leave.

(6) If the employment of an employee who is entitled to childcare leave is terminated (whether by resignation or dismissal, upon the completion of his or her contract of service, or for any other reason) before he or she has taken the entitlement of childcare leave of 2 days for a relevant period, the employee —

(a) ceases to be entitled to that leave upon the termination of his or her employment; and

(b) is not entitled to any payment in lieu thereof.

(7) Any employer who contravenes subsection (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(7A) Any employer who fails, without reasonable cause, to grant childcare leave to an employee who is entitled to and requests for the leave shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

(7B) Where an employer who is convicted or found guilty of an offence under subsection (7) or (7A) is a repeat offender, that employer shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(7C) For the purposes of subsection (7B), a person is a repeat offender in relation to an offence under subsection (7) or (7A) if the person who is convicted or found guilty

of an offence under subsection (7) or (7A) (called the current offence) has been convicted or found guilty of —

- (a) an offence under subsection (7) or (7A);
- (b) [Not in use]
- (c) [Not in use]

on at least one other occasion before the date on which that person is convicted or found guilty of the current offence.

(8) In this section —

“child”, in relation to an employee, includes —

- (a) any adopted child and stepchild of the employee;
- (b) any child to whom the employee is providing care, protection and supervision as a foster parent under a care agreement entered into between the authority responsible for the welfare, care and protection of children in Bhutan or the GMC and the parent or guardian of the child or young person to secure the safety and welfare of the child or young person; and
- (c) any child or young person committed to the care of a care provider pursuant to a court order in Bhutan or the GMC.

“relevant period”, in relation to an employee, means —

- (a) any period of 12 months as is agreed to by the employee and his or her employer; or
- (b) where there is no such agreement, a calendar year.

PART 10

HOLIDAY, ANNUAL LEAVE AND SICK LEAVE ENTITLEMENTS

Holidays

88.—(1) Every employee is entitled to a paid holiday at his or her gross rate of pay on a public holiday that falls during the time that he or she is employed, subject to the following:

- (a) by agreement between the employer and the employee any other day or days may be substituted for any one or more public holidays;

- (b) if any public holiday falls on a rest day, the working day next following that rest day is a paid holiday;
- (c) if any public holiday falls on a day when the employee is not required to work under his or her contract of service, the employer may either pay the employee for that holiday at his or her gross rate of pay or give the employee a day off in substitution for that holiday.

(2) Despite subsection (1), an employee is not entitled to holiday pay for any public holiday which falls on a day when the employee is on leave of absence without pay granted by the employer at the employee's request.

(3) An employee who absents himself or herself from work on the working day immediately preceding or immediately succeeding a public holiday or any day substituted therefor under subsection (1) without the prior consent of his or her employer or without reasonable excuse is not entitled to any holiday pay for that holiday.

(4) Despite subsection (1), any employee may be required by his or her employer to work on any public holiday to which the employee would otherwise be entitled under that subsection and, in such event, the employee must be paid an extra day's salary at the basic rate of pay for one day's work in addition to the gross rate of pay for that day and to a travelling allowance, if payable to the employee under the terms of his or her agreement with his or her employer, for one day.

(4A) Despite subsections (1) and (4), where any employee (other than an employee to whom Part 4 applies by virtue of section 35(b) or who is a workman mentioned in section 35(a)) is required by his or her employer to work on any public holiday to which the employee would otherwise be entitled under subsection (1), the employee must be paid the gross rate of pay for that day and may be given the following, in lieu of a day off in substitution for that holiday or an extra day's salary at the basic rate of pay:

- (a) part of a day off on a working day comprising such number of hours as may be agreed between the employee and his or her employer;
- (b) in the case where there is no such agreement —
 - (i) part of a day off on a working day comprising 4 hours if the employee worked on that holiday for a period not exceeding 4 hours; or
 - (ii) a day off on a working day if the employee worked on that holiday for a period of more than 4 hours.

(5) An employee is not entitled, by reason of subsection (4), to receive double any housing allowance or food allowance.

(6) Subsection (4) does not apply to an employee who is employed by the GMCA or a statutory body in any of the essential services as prescribed by the GMCA, but —

- (a) any such employee may, despite subsection (1), be required by his or her employer to work on a public holiday or part thereof to which the employee would otherwise be entitled under that subsection; and
- (b) in any such case, the employee must be given a day or part of a day off (as the case may be) in substitution for the public holiday or part thereof.

(7) For the purposes of this section if any public holiday falls on a half working day, the gross or basic rate of pay payable is that of a full working day.

Annual leave

88A.—(1) An employee who has served an employer for a period of not less than 3 months is, in addition to the rest days, holidays and sick leave to which the employee is entitled under sections 36, 88 and 89, respectively, entitled to the following:

- (a) 7 days of paid annual leave, for the first 12 months of continuous service with the same employer;
- (b) subject to paragraph (c), an additional one day of paid annual leave, for every subsequent 12 months of continuous service with the same employer;
- (c) a maximum of 14 days of paid annual leave.

(2) An employee who has served an employer for a period of not less than 3 months, but has not completed 12 months of continuous service in any year, is entitled to annual leave in proportion to the number of completed months of service in that year.

(3) In calculating the proportionate annual leave under subsection (2)—

- (a) any fraction of a day that is less than one-half of a day must be disregarded; and
- (b) where a fraction of a day is one-half or more, it must be regarded as one day.

(4) Where an employee is granted leave of absence without pay by an employer at the employee's request, the period of the leave is to be disregarded for the purpose of computing the period of continuous service under this section.

(5) An employee forfeits the employee's entitlement to annual leave if the employee absents himself or herself from work without the employer's permission, or without reasonable excuse, for more than 20% of the working days in the months or year (as the case may be) in which the employee's entitlement to annual leave accrues.

(6) In the case of an employee to whom Part 4 applies by virtue of section 35(b) or who is a workman mentioned in section 35(a)—

- (a) the employer must grant, and the employee must take, the employee's paid annual leave not later than 12 months after the end of every 12 months of continuous service; and

- (b) if the employee fails to take that leave by the end of that period, the employee ceases to be entitled to that leave.

(7) An employer must pay an employee the employee's gross rate of pay for every day of paid annual leave.

(8) If an employee is dismissed on any ground other than misconduct before the employee has taken all of the employee's paid annual leave, the employer must pay the employee the employee's gross rate of pay in respect of every day of that leave not taken by the employee.

(9) The designated officer may, by notification in the *Gazette*, do any of the following:

- (a) fix the periods when, and prescribe the manner in which, paid annual leave is to be granted to employees in different types of employment or in different classes of industries;
- (b) suspend the application of any provision of this section to any class of employees, when the public interest so requires it.

Sick leave

89.—(1) Any employee who has served an employer for a period of not less than 6 months is entitled, after examination by a medical practitioner, to such paid sick leave, as may be certified by the medical practitioner, not exceeding in the aggregate —

- (a) if no hospitalisation is necessary, 14 days in each year; or
- (b) if hospitalisation is necessary, the lesser of the following:
 - (i) 60 days in each year;
 - (ii) the aggregate of 14 days plus the number of days on which the employee is hospitalised.

(2) Any employee who has served an employer for a period of at least 3 months but less than 6 months is entitled, after examination by a medical practitioner, to such paid sick leave, as may be certified by the medical practitioner, not exceeding in the aggregate —

- (a) where the employee has served the employer for a period of at least 3 months but less than 4 months —
 - (i) if no hospitalisation is necessary, 5 days in each year; or
 - (ii) if hospitalisation is necessary, the lesser of the following:
 - (A) 15 days in each year;

(B) the aggregate of 5 days plus the number of days on which the employee is hospitalised;

(b) where the employee has served the employer for a period of at least 4 months but less than 5 months —

- (i) if no hospitalisation is necessary, 8 days in each year; or
- (ii) if hospitalisation is necessary, the lesser of the following:
 - (A) 30 days in each year;
 - (B) the aggregate of 8 days plus the number of days on which the employee is hospitalised; or

(c) where the employee has served the employer for a period of at least 5 months but less than 6 months —

- (i) if no hospitalisation is necessary, 11 days in each year; or
- (ii) if hospitalisation is necessary, the lesser of the following:
 - (A) 45 days in each year;
 - (B) the aggregate of 11 days plus the number of days on which the employee is hospitalised.

(3) For the purposes of this section —

- (a) an employee is hospitalised if the employee is warded in a hospital in such circumstances as may be prescribed or is under quarantine (whether or not in a hospital) under any written law; and
- (b) an employee is to be treated as hospitalised for any period the employee is not an in-patient of a hospital, or stops being an in-patient of a hospital after being warded in that hospital in accordance with paragraph (a), if the employee is certified, by a medical practitioner employed by a hospital approved by the designated officer —
 - (i) to be ill enough to require hospitalisation during that period; or
 - (ii) to need rest or further medical treatment during that period in order to recover after the employee's discharge from a hospital.

(4) An employee who absents himself or herself on sick leave —

- (a) which is not certified by a medical practitioner; or

- (b) which is certified by a medical practitioner not appointed by the employer, but of which the employee did not inform or attempt to inform the employer within 48 hours after its commencement,

is deemed to have absented himself or herself from work without the employer's permission and without reasonable excuse for the days on which the employee is so absent from work.

- (5) The employer must pay the employee for every day of such sick leave —
 - (a) where no hospitalisation is necessary, at the gross rate of pay excluding any allowance payable in respect of shift work; and
 - (b) where hospitalisation is necessary, at the gross rate of pay.
- (6) Despite subsection (5), an employee is not entitled to paid sick leave on a rest day or on a holiday to which he or she is entitled under section 36 or 88 respectively or on any day of paid annual leave or on a day when he or she is not required to work under his or her contract of service or on a day when he or she is on leave of absence without pay granted by the employer at the employee's request.
- (7) *[Not in use]*
- (7A) Where an employee has served an employer for a period of at least 3 months, the employer is liable to bear, or to reimburse the employee, the fees of an examination of the employee by a medical practitioner, if —
 - (a) the medical practitioner is appointed by the employer or is a medical officer; and
 - (b) after the examination, the employee is certified by the medical practitioner to be entitled to paid sick leave.
- (8) An employer is deemed to fulfil the employer's obligation under subsection (7A) if —
 - (a) the Commissioner, after considering the merits of any healthcare scheme that the employer provides to the employer's employees and such other matters as the Commissioner may consider relevant, by written order directs that the employer has fulfilled that obligation for so long as the employer provides such a healthcare scheme for the employer's employees; or
 - (b) the employer complies with such other requirement as the designated officer may, by regulations, prescribe.
- (9) An order made under subsection (8)(a) —

- (a) may be subject to such terms or conditions as the Commissioner may determine, which the Commissioner may add to, vary or revoke;
- (b) [Not in use]
- (c) may be revoked by the Commissioner in writing at any time.

(10) This section does not apply to any employee seeking or undergoing medical treatment which, in the opinion of a medical practitioner performing the examination under subsection (1) or (2), is for cosmetic purposes.

Offence

90.—(1) Any employer who employs any person as an employee contrary to the provisions of this Part or fails to pay any salary in accordance with the provisions of this Part shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000, and for a second or subsequent offence to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) Despite subsection (1)—

- (a) an employer and the employer's employees may negotiate for and agree to terms of service more favourable than those contained in sections 88A and 89; and
- (b) it is not an offence for an employer to grant to the employer's employees terms of service more favourable than those contained in sections 88A and 89.

PART 11 [Not in use]

91. [Not in use]

92. [Not in use]

93. [Not in use]

94. [Not in use]

PART 12

REGISTERS, RETURNS AND OTHER DOCUMENTARY REQUIREMENTS

Employers' obligation in relation to employee records

95.—(1) An employer must make, and keep for the period prescribed (called in this section the record retention period), employee records containing the prescribed particulars for—

- (a) every employee the employer employs; and
- (b) every former employee of the employer.

(2) An employer must ensure that an employee record made and kept under subsection (1) is, during the record retention period prescribed for the employee record, readily accessible to the employee or former employee to which the employee record relates.

(3) An employer is taken to have failed to comply with subsection (1) if the employer makes or keeps an employee record that is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.

(4) Different record retention periods may be prescribed for different classes of employees or former employees, and for different types of employee records.

(5) In this section, “employee record”, for an employee or a former employee of an employer, means a record of information or particulars about the employment by the employer of the employee or former employee, as the case may be.

Employers’ obligation to give record of key employment terms

95A.—(1) This section only applies to, and in relation to, every employee —

- (a) who enters into a contract of service with the employer on or after the commencement of this provision; and
- (b) who is employed under that contract for a period not shorter than the prescribed minimum period of service.

(2) An employer must give each employee of the employer a written record of the key employment terms of the employee not later than 14 days after the day that the employee starts employment with the employer, or within such other period as may be prescribed in substitution.

(3) The requirement to give a written record of key employment terms to an employee in subsection (2) is satisfied if —

- (a) an electronic record containing the key employment terms is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference; or
- (b) the key employment terms are published on an Internet website —
 - (i) which is authorised by the employer and readily accessible to the employee; and
 - (ii) which address is disseminated by the employer to the employee.

(4) To avoid doubt, subsection (3) does not limit any other manner of giving to an employee a written record of the key employment terms of the employee.

(5) An employer is taken to have failed to comply with subsection (2) if the written record given is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.

(6) The designated officer may, by order in the *Gazette* and subject to such conditions as are specified in the order, exempt from any provision in this section —

- (a) any class of employers specified in the order, in respect of all employees; or
- (b) all employers or any class of employers, in respect of any class of employees, specified in the order.

(7) In this section, “key employment term”, for an employee, means any type of term of employment contained in a contract of service between an employer and the employee that is prescribed to be a key employment term.

Employers’ obligation in relation to pay slips

96.—(1) Subject to subsection (2), an employer must give —

- (a) to every employee of the employer a pay slip, within the time prescribed for giving pay slips, for all salary paid by the employer for the salary period or salary periods to which the pay slip relates; and
- (b) to every employee a pay slip for every sum paid by the employer under section 22 or 23.

(2) A pay slip given by an employer to an employee must be in the form prescribed (if prescribed) and must contain all the information prescribed.

(3) The requirement to give a pay slip to an employee under this section is satisfied if an electronic record containing the prescribed information of a pay slip is provided in a manner that enables the information contained in the electronic record to be accessible and useable by the employee for subsequent reference.

(4) An employer is taken to have failed to comply with subsection (1) if the pay slip given to an employee is incomplete or inaccurate, whether or not the employer knew that the pay slip is incomplete or inaccurate.

(5) The designated officer may, by order in the *Gazette* and subject to such conditions as are specified in the order, exempt from any provision in this section —

- (a) any class of employers specified in the order, in respect of all employees; or
- (b) all employers or any class of employers, in respect of any class of employees, specified in the order.

Employer's obligation to furnish information on retrenchment of employees

96A.—(1) The Commissioner may, by notification in the *Gazette*, require any employer, or any employer in a class of employers, to furnish to the Commissioner, at such time and in such form as may be specified in the notification, such information on the retrenchment of any employee by the employer as may be specified in the notification.

(2) Every employer to whom the notification applies must comply with every requirement in the notification concerning the furnishing to the Commissioner of information on the retrenchment of any employee by the employer.

Returns

97.—(1) The Commissioner may, by notification in the *Gazette*, require any employer or class of employers to forward to the Commissioner at such time or times as may be specified in the notification a return in such form or forms as the Commissioner may approve giving the particulars and information prescribed therein, and any such employer must furnish the particulars and information so prescribed.

(2) A person is not bound to furnish any particulars or information other than such as are accessible to the person in the course of or derivable from any profession, business, trade or work in the conduct or supervision of which that person is engaged.

Commissioner may call for further returns

98.—(1) The Commissioner may give written notice to any employer, when and as often as the Commissioner thinks necessary, requiring the employer to furnish within a reasonable time stated in the notice fuller or further returns respecting any matter as to which a return is required under this Act or the Employment of Foreign Manpower Act 2025.

(2) The requisition may specify —

- (a) the form in which and the time within which the particulars and information are to be furnished;
- (b) the particulars and information to be furnished; and
- (c) the place or manner at or in which the particulars and information are to be delivered.

Power to call for returns, books, etc.

99. For the purpose of obtaining full information in respect of any employer's employees, the Commissioner may give written notice to such person requiring that person, within the time stated in the notice, to complete and deliver to the Commissioner any return specified in the notice and in addition or alternatively requiring that person to attend personally before the Commissioner or any inspecting officer specified in the

notice and to produce for examination any books, documents, accounts and returns which the Commissioner may consider necessary.

100. [Not in use]

Offence

101.—(1) Any employer who —

- (a) wilfully refuses or without lawful excuse (the proof of which is to lie on the employer) neglects to furnish the particulars or information required within the time allowed for furnishing the particulars and information, or to furnish the particulars and information in the form specified or prescribed, or to authenticate the particulars and information at the place or in the manner specified or prescribed for the delivery thereof;
- (b) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter specified in the notice requiring particulars or information to be furnished; or
- (c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining any information or particulars required to be furnished under this Act,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and in the case of a continuing offence to a further fine not exceeding \$500 for every day during which the offence continues, and in respect of false particulars, information and answers, the offence is deemed to continue until true particulars, information or answers have been furnished or given.

(2) A certificate under the hand of the Commissioner stating that such returns have not been furnished or are incorrect is sufficient *prima facie* evidence of the truth of the facts stated in the certificate.

(3) Subsections (1) and (2) do not apply to any information furnished or required to be furnished under section 96A by an employer on the retrenchment of any employee by the employer.

Returns not to be published or disclosed

102.—(1) Any return of particulars or information or part of a return furnished, or answer to any question put, for the purposes of this Act must not, without the previous written consent of the person having the control, management or superintendence of the profession, business, trade or work in relation to which the return or answer was furnished or given, be published; and, except for the purposes of a prosecution under this Act, any person not engaged in connection with the collection or preparation of

statistics under this Act must not be permitted to see any such individual return or any such part of an individual return.

(2) Every person engaged in connection with the collection, preparation or publication of statistics under this Act must make a declaration in the prescribed form that the person will not disclose or, except for the purposes of this Act, make use of the contents of any such part of an individual return, or any such answer; and any person who knowingly acts in contravention of any declaration which the person has so made shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) In any report, summary of statistics, or other publication prepared under this Act with reference to any trade or industry, the particulars comprised in any return must not be disclosed in any manner whatever, or arranged in any way which would enable any person to identify any particulars so published as being particulars relating to any individual person or business.

(4) If any person, having possession of any information which to the person's knowledge has been disclosed in contravention of this section, publishes or communicates to any other person any such information, the person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Subsections (1) to (4) do not apply to any information furnished under section 96A by an employer on the retrenchment of any employee by the employer.

PART 13

INSPECTION AND ENQUIRY

Powers of Commissioner and inspecting officers

103.—(1) The Commissioner or any inspecting officer has, for the purposes of this Act, power to do all or any of the following:

- (a) to enter and search, by day or by night, any premises or part thereof when he or she has reasonable cause to believe that evidence of the commission of an offence under this Act or of a civil contravention can be found therein;
- (aa) to enter without previous notice at any reasonable time any place of employment for the purpose of conducting any audit in relation to the terms and conditions of employment of any employee;
- (b) to examine orally any person reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act, and to reduce into writing the answer given or statement made by that person;

- (c) to require any person whom the Commissioner or inspecting officer has reason to believe has any document, including documents of identity or documents containing information relevant to the carrying out of the provisions of this Act, to produce any such document and to answer such questions relating thereto as the Commissioner or inspecting officer may think proper to ask;
- (d) to examine notices and all documents which are required to be kept under the provisions of this Act or any regulations made under this Act and any document required to be produced under paragraph (c);
- (e) to make copies of or retain any notice or document mentioned in paragraph (d);
- (f) to retain for purposes of analysis samples of materials and substances used or handled by employees, except that the employer or the employer's representative must be notified of any such samples of materials or substances taken or removed for this purpose;
- (g) to take such photographs, or audio or video recording, as the Commissioner or inspecting officer thinks necessary, of the premises and persons reasonably believed to be acquainted with the facts and circumstances relevant to the carrying out of the provisions of this Act;
- (h) to require any person to produce any article that is relevant to any investigation under this Act and, if necessary, to take into custody any such article.

(2) The person mentioned in subsection (1)(b) is bound to state truly the facts and circumstances with which that person is acquainted.

(3) A statement made by the person mentioned in subsection (1)(b) must be read over to that person and must, after correction, if necessary, be signed by that person.

(4) The Commissioner or the inspecting officer must, if required to do so, show his or her credentials.

Notice to employer by Commissioner or inspecting officer of inspection or visit

104. On entering any place of employment under section 103, the Commissioner or the inspecting officer must notify the employer or the employer's representative of his or her presence unless he or she considers that such a notification may be prejudicial to the efficient performance of his or her duties.

Power to arrest without warrant

105.—(1) Any inspecting officer may arrest without warrant any person whom the inspecting officer reasonably suspects —

- (a) is committing or has committed an offence under section 21, 22 or 23 read with section 34; or
- (b) has abetted the commission of any offence mentioned in paragraph (a).

(2) Any inspecting officer may arrest without warrant any person who is an officer or a member of a body corporate or an unincorporated association or a partner of a partnership and whom the inspecting officer reasonably suspects has consented to, connived in or due to neglect on that person's part caused the commission of an offence mentioned in subsection (1)(a).

(3) An inspecting officer making an arrest without warrant must, without unnecessary delay and subject to subsection (5), produce the person arrested before a court.

(4) An inspecting officer must not detain in custody a person arrested without warrant for longer than is reasonable in the circumstances, and the period must not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the court.

(5) Any person who has been arrested by an inspecting officer may be released on bail, or on his or her own bond, by an inspecting officer.

How to arrest

105A.—(1) In making an arrest, an inspecting officer making the arrest must touch or confine the body of the person to be arrested unless the person submits to arrest by word or action

(2) If the person forcibly resists or tries to evade arrest, the inspecting officer may use all means necessary to effect the arrest.

No unnecessary restraint

105B.—(1) The person arrested must not be subjected to more restraint than is necessary to prevent his or her escape.

(2) An inspecting officer may use handcuffs or any similar means of restraint on a person arrested to prevent him or her from —

- (a) inflicting any bodily injury to himself, herself or others;
- (b) damaging any property;
- (c) creating any disturbance; or
- (d) escaping from custody.

(3) The handcuffs or similar means of restraint must not be used for the purpose of punishment.

Search of persons arrested

105C.—(1) When a person is arrested, the inspecting officer making the arrest may search the person and take possession of all articles (other than necessary wearing apparel) found upon the person that the inspecting officer has reason to believe were connected with the offence for which the person is being arrested.

(2) Whenever it is necessary to cause a person to be searched, the search must be made by an inspecting officer of the same sex as the person, with strict regard to decency.

Inspecting officer to be armed

105D. Every inspecting officer must be provided with such batons and accoutrements as may be necessary for the effective discharge of his or her duties.

Power to seize offensive weapons

105E. An inspecting officer making any arrest may take from the person arrested any offensive weapons which that person has about his or her person.

Power on escape to pursue and arrest

105F. If a person in lawful custody escapes or is rescued, the inspecting officer from whose custody that person escaped or was rescued may immediately pursue and arrest that person in any place within GMC or the Kingdom of Bhutan and deal with him or her as the officer might have done on the original arrest.

Inspecting officer not to reveal secrets

106. A person must not, except in the performance of his or her duties, reveal any manufacturing or commercial secrets which may at any time come to his or her knowledge in the course of his or her duty as an inspecting officer.

Disposal of documents, articles, etc.

106A.—(1) Any document, article or thing that the Commissioner or an inspecting officer takes possession of under this Part must —

(a) where the document, article or thing is produced in any criminal trial, be dealt with in accordance with any written laws providing for the disposal of property by the court; and

(b) in any other case, be returned to the owner or reported to a court.

(2) Where the report of any document, article or thing is made to a court under subsection (1)(b), the court may order the document, article or thing —

(a) to be forfeited; or

- (b) to be disposed of in any manner that the court thinks fit.
- (3) Nothing in this section is taken to prejudice any right to retain or dispose of property which may exist in law apart from this section.

Offence

107. Any person who —

- (a) without reasonable excuse, neglects or refuses to produce any document or article as required under section 103;
- (b) makes to the Commissioner or an inspecting officer exercising the powers under section 103 a statement, either orally or in writing, which is false in a material particular; or
- (c) otherwise hinders or obstructs the Commissioner or an inspecting officer in the exercise of the powers under section 103,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

PART 14

GENERAL

Calculation of gross and basic rates of pay of employee employed on monthly rate or piece rates

107A.—(1) The gross rate of pay per day of an employee employed on a monthly rate or on piece rates is to be calculated in accordance with the second column of the Third Schedule.

(2) The basic rate of pay per day of an employee employed on a monthly rate or on piece rates is to be calculated in accordance with the third column of the Third Schedule.

Wrongful detention of employee

108. Any employer who without reasonable excuse, the proof of which is to lie on the employer, refuses to allow an employee whose contract of service has been determined in any of the ways provided in this Act to leave the employer's service shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and the whole or any portion of any fine recoverable under this section may be adjudged by the court to be paid to the employee.

Employee not answerable for debt, default or miscarriage of another

109. An employee is not bound, by virtue of any contract of service under this Act, to answer for the debt, default or miscarriage of any other person.

Obstruction of employee by employer

110. Any employer or other person who in any way obstructs any employee in appearing before the Commissioner pursuant to this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

Punishment for obstruction

111. Any person who wilfully obstructs or impedes any entry, inspection, inquiry or investigation made under this Act for which no penalty is expressly provided shall be guilty of an offence.

Penalties

112. Any person who is guilty of any breach or any offence under this Act for which no penalty is otherwise provided shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both, and for a subsequent offence under the same section to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Abetment of offences

112A. Any person who abets the commission of an offence under this Act shall be guilty of the offence and shall be liable on conviction to be punished with the punishment provided for that offence.

Penalty for fraudulently inducing employee to emigrate

113. Any person who by force, intoxication or ill-treatment, intimidation or fraud, or by means of false representations, induces or attempts to induce any person to enter into a contract of service to work beyond the limits of GMC or the Kingdom of Bhutan shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

Offences by bodies corporate, etc.

113A.—(1) Where an offence under this Act committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on the officer's part,

the officer as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

(3) Where an offence under this Act committed by a partnership is proved —

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the partner's part,

the partner as well as the partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by an unincorporated association (other than a partnership) is proved —

- (a) to have been committed with the consent or connivance of an officer of the unincorporated association or a member of its governing body; or
- (b) to be attributable to any neglect on the part of such an officer or member,

the officer or member as well as the unincorporated association shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) For the purposes of this section, where an offence under this Act has been committed by a body corporate, an unincorporated association (other than a partnership) or a partnership, it is presumed, until the contrary is proved, that the offence is attributable to the neglect of an officer or a member of the body corporate or unincorporated association or a partner of the partnership (as the case may be) who —

- (a) is primarily responsible for the act or omission which constitutes the offence; and
- (b) has failed to exercise reasonable supervision or oversight as such officer, member or partner.

(6) In this section —

“body corporate” means a body incorporated under any written law and includes a body incorporated outside of GMC and a limited liability partnership (if the circumstances, and any written law providing for limited liability partnerships, so allow);

“officer” —

- (a) in relation to a body corporate, means any director, partner, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of such a committee and includes any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner.

(7) The designated officer may make regulations to provide for the application of any provision of this section, with such modifications as the designated officer considers appropriate, to any body corporate or unincorporated association formed or recognised under the law of a territory outside GMC .

Power to compound offences

114. The Commissioner may compound any such offence under this Act as may be prescribed as being an offence which may be compounded by accepting from the person reasonably suspected of committing that offence a sum not exceeding \$5,000.

PART 15

CLAIMS, COMPLAINTS AND INVESTIGATIONS INTO OFFENCES

Commissioner’s power to inquire into complaints

115.—(1) Subject to this section, the Commissioner may inquire into and decide any dispute between an employee and his or her employer or any person liable under the provisions of this Act to pay any salary due to the employee where the dispute arises out of any term in the contract of service between the employee and his or her employer or out of any of the provisions of this Act, and pursuant to that decision may make an order in the prescribed form for the payment by either party of such sum of money as the Commissioner considers just without limitation of the amount thereof.

(1A) The Commissioner must not inquire into or decide a dispute mentioned in subsection (1) unless —

- (a) the dispute is of a type prescribed by regulations made under section 139.
- (b) [Not in use]

(2) The Commissioner must not inquire into any dispute in respect of matters arising earlier than one year from the date of lodging a claim under section 119 or the termination of the contract of service of or by the person claiming under that section:

Provided that the person claiming in respect of matters arising out of or as the result of a termination of a contract of service has lodged a claim under section 119 within 6 months of the termination of the contract of service.

(2A) [Not in use]

(3) The powers of the Commissioner under subsection (1) include the power to hear and decide, in accordance with the procedure laid down in this Part, any claim by a subcontractor for labour (called in this subsection the claimant) against a contractor or subcontractor for any sum which the claimant claims to be due to the claimant in respect of any labour provided by the claimant under the claimant's contract with the contractor or subcontractor and to make such consequential orders as may be necessary to give effect to the Commissioner's decision.

(3A) Where the employee is employed in a managerial or an executive position, an order for the payment of money under subsection (1) must not exceed \$20,000.

(3B) Subject to subsection (3C), any order made by the Commissioner under subsection (1) in the absence of a party concerned or affected by the order may be set aside or varied by the Commissioner, on the application of that party, on such terms as the Commissioner thinks just.

(3C) An application to set aside or vary an order made by the Commissioner referred to in subsection (3B) must be made no later than 14 days after the date of the order.

(4) In this section, "employer" includes the transferor and the transferee of an undertaking or part thereof referred to in section 18A.

Prohibiting order by Commissioner to third party

116.—(1) Whenever the Commissioner has made an order under section 115 against any employer or any person liable for the payment of any sum of money to any workman or subcontractor for labour and after inquiry finds that there exists between that employer or person liable and some other person a contract in the course of the execution of which the workman or subcontractor for labour performed the work in respect of which the order has been made, the Commissioner may summon that other person and may make an order prohibiting that other person from paying to the employer or person liable and requiring that other person to pay to the Commissioner any money (not exceeding the amount found due to the workman or subcontractor for labour) admitted by that other person to be owing to the employer or person liable in respect of the contract.

(2) Where that other person admits to the Commissioner in writing that money is owing by that other person under the contract to the employer or person liable, that other

person need not be summoned before the Commissioner and the Commissioner may make such order in that other person's absence.

(3) Where that other person is liable as a principal under section 65 to pay any salary due by the employer or person liable and where the money admitted by that other person to be owing to the employer or person liable is not sufficient to pay the whole of the salary, nothing in this subsection relieves that other person of that other person's liability for the balance of the salary up to the amount for which that other person is liable under that section.

(4) Any person so summoned is legally bound to attend at the time and place mentioned in the summons and to answer truthfully all questions relating to the contract which the Commissioner may put to that person.

(5) The payment of any money pursuant to an order under subsection (1) is a discharge and payment up to the amount so paid of money due to the employer or person liable under the contract.

Right of appeal

117.—(1) Where any person interested is dissatisfied with the decision or order of the Commissioner, the person may, within 14 days after the decision or order, appeal to a court that is not the lowest level of court from the decision or order.

(2) The procedure governing any such appeal to a court that is not the lowest level of court is as provided for in any rules governing court procedure.

Fees and enforcement of orders

118.—(1) No fees other than a registration fee in accordance with the rates specified in the Second Schedule are to be charged by the Commissioner in respect of processes issued by the Commissioner under this Part and all orders made by the Commissioner, even though they may in respect of the amount or value be in excess of the ordinary jurisdiction of the court, are to be enforced by a court in the same manner as a judgment of that court and all necessary processes may be served by the court on the Commissioner's behalf.

(2) A sale of immovable property must not be ordered for the purposes of the enforcement, except by a court that is not the lowest level of court.

Procedure for making and hearing claims

119.—(1) The mode of procedure for the making and hearing of claims is as follows:

(a) the person claiming must lodge a memorandum at the office of the Commissioner, specifying shortly the subject matter of the claim and the remedy sought to be obtained, or the person may make a claim in person to

the Commissioner who must immediately reduce it or cause it to be reduced in writing;

- (b) upon receipt of the memorandum or verbal claim and of the registration fee payable by the person in accordance with the rates specified in the Second Schedule, the Commissioner must summon in writing the party against whom the claim is made, giving reasonable notice to that party of the nature of the claim and the time and place at which the claim will be inquired into, and the Commissioner must also notify or summon all persons whose interests appear to the Commissioner likely to be affected by the proceedings;
- (c) the Commissioner may also summon such witnesses as either party may wish to call;
- (d) if the party against whom a claim is made wishes to make a counterclaim against the party claiming, the firstmentioned party must notify the Commissioner and the other party in writing of the nature and amount of the counterclaim not less than 3 days before the date of the inquiry;
- (e) at any time between the issuing of summons and the hearing of the claim, the Commissioner may hold or cause to be held a preliminary inquiry at which the party claiming and the party against whom the claim is made must be present after having been notified in writing of the inquiry;
- (f) at the preliminary inquiry the parties may amend or withdraw the whole claim or portion thereof, make a counterclaim or reach a settlement in respect of the claim;
- (g) if a settlement is effected at a preliminary inquiry in respect of a claim or portion thereof, the Commissioner must make an order recording the terms of the settlement and that order has effect as if it were an order made under paragraph (h);
- (h) at the time and place appointed the parties must attend and state their case before the Commissioner and may call evidence, and the Commissioner, having heard on oath or affirmation the statements and evidence and any other evidence which the Commissioner may consider necessary, must give his or her decision and make such order in the prescribed form as may be necessary for giving effect to the decision;
- (i) if any person interested has been duly summoned by the Commissioner to attend at the inquiry and makes default in so doing, the Commissioner may hear the claim and make his or her decision in that person's absence even though the interest of that person may be prejudicially affected by the Commissioner's decision;
- (j) the Commissioner must keep a case book, in which he or she is to enter notes of the evidence taken and the decisions arrived at in each case heard before

him or her and must authenticate them by attaching his or her signature thereto, and the record in the case book is sufficient evidence of the giving of any decision, or of the making of any order, and of the terms thereof; and any person interested in a dispute, decision or order, is entitled to a copy of the record upon payment of the prescribed fee.

- (2) In hearing claims or conducting proceedings under this Part, the Commissioner—
 - (a) is not bound to act in a formal manner or in accordance with any written laws of evidence but may inform himself or herself on any matters in any manner that he or she thinks just; and
 - (b) must act according to equity, good conscience and the merits of the case without regard to technicalities.
- (3) All proceedings before the Commissioner are to be held in private.

Representation before Commissioner

120. In proceedings before the Commissioner, a party —

- (a) [Not in use]
- (b) being an employer may be represented by one of the employer's employees, but must not be represented by an advocate or solicitor or a paid agent.

Joining of claims

121.—(1) In proceedings under this Part where it appears to the Commissioner that there are more employees or subcontractors for labour than one having a common claim or similar claims against the same employer or person liable, it is not necessary for each of them to make a separate claim under this Part, but the Commissioner may permit one or more of them to lodge a memorandum or make a claim and to attend and act on behalf of and generally to represent the others, and the Commissioner may proceed to adjudicate on the several or joint claim of each and every such employee or subcontractor for labour.

(2) Where the Commissioner is of the opinion that the interest of the employer or person liable is or is likely to be prejudiced by the non-attendance of any employee or subcontractor for labour, the Commissioner must require the personal attendance of the employee or subcontractor for labour.

Jurisdiction of courts not affected

122. Nothing in this Part limits or affects the jurisdiction of any court.

No division of claims

123. No claim is to be divided and pursued in separate proceedings before the Commissioner for the sole purpose of bringing the sum claimed in each of such proceedings within the jurisdiction of this Act.

Investigations of complaints and offences

124.—(1) Whenever—

- (a) the designated officer, the Commissioner or an inspecting officer (each called in this section a relevant authority) has reasonable grounds for believing that an offence under this Act has been committed, or wishes to inquire into any matter for which provision is made by this Act or any dispute as to such matter or the death of an employee, or any matter connected with hospital and medical facilities, quarters, sanitation, inspections or the keeping of registers and other documents; or
- (b) whenever any person complains to a relevant authority of any breach of any provision of this Act,

the relevant authority may summon any other person who the relevant authority has reason to believe can give information regarding the subject matter of the inquiry or complaint, and the person so summoned is legally bound to attend at the time and place specified in the summons to furnish information or documents, produce any article or give statements, and to answer truthfully all questions which the relevant authority may put to the person so summoned.

(2) Any person who in any way wilfully obstructs the service of or obedience to the summons, and any person summoned who neglects to attend as required in the summons shall be guilty of an offence.

(3) The Commissioner or inspecting officer has the power to report any failure by such person to attend as required by a summons under subsection (2) to a court, who may thereupon issue a warrant to secure the attendance of that person as required by the summons.

Procedure after inquiry

125.—(1) If upon an inquiry under section 124 it appears that an offence has been committed or that the complaint is well founded, the Commissioner may institute such proceedings, civil or criminal, as the Commissioner considers necessary under the circumstances and where the proceedings arise from a complaint made by an employee or a subcontractor for labour the Commissioner is to institute the proceedings for and in the name of the employee or subcontractor for labour.

(2) In the event of there being more employees or subcontractors for labour than one making a similar complaint, the Commissioner may, if the Commissioner institutes civil proceedings for and in the name of those employees or subcontractors for labour, consolidate the complaint of all those employees or subcontractors for labour into one

cause of action and the Commissioner is only required to take out one summons for and in the name of all those employees or subcontractors for labour in respect of such causes of action.

(3) Any court which would have jurisdiction to hear and determine separate suits based on such causes of action is competent to hear and determine such consolidated suit, even though the subject matter of the consolidated subject matter suit is in excess of the ordinary jurisdiction of that court.

(4) Judgment may be given without any amendment for such one or more of the claimants as may be found to be entitled to relief for such relief as one or more of them may be entitled to.

Costs of proceedings

126. No court fees are chargeable in the first instance on any proceedings commenced by an employee or a subcontractor for labour or by the Commissioner on behalf of the employee or the subcontractor for labour, against the employee's employer or other person liable under this Act but, in case a conviction is had or judgment is given against that employer or person liable, the court fees are to be paid by the employer or person liable together with the general costs of the proceedings.

PART 15A

ADMINISTRATIVE PENALTIES

Civil contraventions

126A. The following contraventions are declared to be civil contraventions for the purposes of this Act:

- (a) a failure by an employer to comply with section 95(1), 95A(2) or 96(1);
- (aa) a failure, by an employer to whom a notification under section 96A applies, to comply with any requirement in the notification concerning the furnishing to the Commissioner of information on the retrenchment of any employee by the employer;
- (ab) a contravention, by an employer of any provision of any regulations mentioned in section 139(2)(aa), that the designated officer has prescribed under section 139(2B) as a contravention to which this section applies;
- (b) provision by an employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.

Payment of administrative penalty

126B.—(1) An authorised officer may issue a contravention notice to an employer requiring the employer to pay an administrative penalty of the prescribed amount, for—

- (a) each occasion of an alleged failure by the employer to comply with section 95(1), 95A(2) or 96(1) with respect to any one employee or former employee;
- (aa) each occasion of an alleged failure by the employer to comply with any requirement, in a notification under section 96A that applies to the employer, concerning the furnishing to the Commissioner of information on the retrenchment of any one employee by the employer;
- (ab) each occasion of an alleged contravention, of any provision of any regulations mentioned in section 139(2)(aa), that the designated officer has prescribed under section 139(2B) as a contravention to which section 126A applies, by the employer; or
- (b) each occasion of an alleged provision by the employer of inaccurate information or particulars to the Commissioner or an inspecting officer under this Act, inadvertently or without intent to mislead or defraud.

(2) A contravention notice must—

- (a) specify the amount of administrative penalty to be paid;
- (b) specify the date by which the administrative penalty must be paid; and
- (c) set out the brief details of the alleged contravention and such other particulars as may be prescribed.

(3) Different amounts of administrative penalty may be prescribed for different civil contraventions or different circumstances in which a civil contravention takes place.

(4) Any employer who is issued a contravention notice under subsection (1) must pay the administrative penalty specified in the contravention notice to the authorised officer within the time, in such mode of payment and at such place as is specified in that notice.

Appeal, etc.

126C.—(1) Any employer who is issued a contravention notice by an authorised officer under section 126B(1) (called in this section the initial authorised officer) may—

- (a) within the prescribed period and in accordance with the prescribed procedure, request for an internal reconsideration of the contravention notice by another authorised officer (called in this section the reviewing authorised officer); or
- (b) within the prescribed period (and despite not requesting for an internal reconsideration), appeal to a court that is not the lowest level of court which may hear and determine the matter afresh.

(2) A reviewing authorised officer reconsidering a contravention notice issued to an employer must not be subordinate to the initial authorised officer who issued the contravention notice.

(3) A reviewing authorised officer may, after reconsidering the issue of a contravention notice by the initial authorised officer —

- (a) confirm the contravention notice issued by the initial authorised officer; or
- (b) cancel the contravention notice.

(4) Any employer who is aggrieved by the reviewing authorised officer's decision under subsection (3)(a) may, within the prescribed period, appeal to a court that is not the lowest level of court which may hear and determine the matter afresh.

(5) The procedure governing any such appeal to the court that is not of the lowest level of courts is as provided in any rules governing court procedure.

(6) The enforcement of the payment of any administrative penalty required by a contravention notice to be paid under section 126B is stayed —

- (a) if a request for internal reconsideration under subsection (1)(a) is made, until after the reconsideration is completed; or
- (b) if an appeal under subsection (1)(b) or (4) is filed, until after the appeal is completed.

(7) In relation to a contravention notice issued to an employer under section 126B(1), where —

- (a) an appeal to the court has been filed under subsection (1)(b) or (4) and the appeal is dismissed;
- (b) the prescribed period for requesting an internal reconsideration under subsection (1)(a) has lapsed without such request made, and the prescribed period for filing an appeal to the court under subsection (1)(b) has lapsed and no appeal is filed; or
- (c) the prescribed period for filing an appeal to the court under subsection (4) has lapsed and no appeal is filed,

the contravention notice may, by permission of a court, be enforced against the employer in the same manner as a judgment of the court, and where permission is so given, judgment may be entered in terms of that contravention notice.

(8) The initial authorised officer may, in any case in which the initial authorised officer thinks fit, waive, remit or refund in whole or in part any administrative penalty paid or required to be paid under section 126B.

Directions

126D.—(1) In lieu of or in addition to giving an employer a contravention notice under section 126B, an authorised officer may —

- (a) *issue* such directions to the employer as the authorised officer thinks appropriate to bring the civil contravention to an end; and
- (b) where necessary, require the employer to take such action as is specified in the direction to remedy, mitigate or eliminate any effects of the civil contravention and to prevent the recurrence of the civil contravention.

(2) An employer who, without reasonable excuse, fails to comply with a direction given to the employer under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

PART 16**PROCEDURE AND REGULATIONS**

127. *[Not in use]*

Protection from personal liability

127A. No liability shall lie against any person appointed under section 3 or any other person acting under the direction of the Commissioner for anything which is done with reasonable care and in good faith in the execution or purported execution of this Act.

128. *[Not in use]*

Jurisdiction of Magistrates' and District Courts

129.—(1) *[Not in use]*

(2) Notwithstanding the jurisdiction of the body or agency that the Druk Gyalpo appoints as the court, that body or agency may impose the full punishment prescribed by this Act.

Right to hearing

130. The Commissioner and any officer authorised by the Commissioner in writing have the right to appear and be heard before any court in any proceedings under this Act.

Onus of proof

131. In all proceedings under Part 15, the onus of proving that a person is not the employer or the person whose duty it is under this Act to do or abstain from doing anything is on the person who alleges that the person is not the employer or other person, as the case may be.

Civil proceedings not barred

132. Nothing in this Act operates to prevent any employer or employee from enforcing the employer's or employee's respective civil rights and remedies for any breach or non-performance of a contract of service by any suit in court in any case in which proceedings are not instituted, or, if instituted, are not proceeded with to judgment under this Act.

Power to deal with evidence taken down by another officer

133. Where the Commissioner or any officer performing the duties or exercising the powers conferred on the Commissioner has, for the purpose of inquiring into any matter under this Act, taken down any evidence or made any memorandum and is prevented by death, transfer or other cause from concluding the inquiry, any successor to the Commissioner or other officer may deal with the evidence or memorandum as if the successor had taken it down or made it and proceed with the inquiry from the stage at which his or her predecessor left it.

Application of fines

134. When under this Act any court imposes a fine or enforces the payment of any sum secured by a recognizance or bond, the court may direct that the whole or any part of the fine or sum when recovered be paid to the party complaining, or where the offence was committed by an employer in respect of a liability to pay money to an employee, that employee.

Imprisonment to be in discharge of fine, compensation, etc.

135. Subject to any special provision to the contrary in this Act, from and after the determination of any imprisonment suffered under this Act for non-payment of the amount of any fine, compensation or damages, with the costs assessed and directed to be paid by any order of court, the amount so ordered is deemed to be liquidated and discharged, and the order is annulled.

Recovery of money as fines

136. In the event of any employer being subjected to any fine or penalty (but not an administrative penalty under Part 15A) under the provisions of this Act, the fine or penalty may, in addition to any other means of recovery, be recovered by distress and sale of the place of employment, or of any property belonging to the employer and in the place of employment.

Service of requisitions and summons

137.—(1) Any requisition issued under section 98 or 99 or any summons issued under section 116, 119 or 124 may be served on any person —

- (a) by delivering it to the person or to some adult member of his or her family at his or her last known place of residence;
- (b) by leaving it at or sending it by registered post to the person's usual or last known place of residence or business in an envelope addressed to the person; or
- (c) where the person is a body of persons or a body corporate —
 - (i) by delivering it to the director, manager, secretary or other similar officer of the body of persons or body corporate at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the body of persons or body corporate at its registered office or principal place of business.

(2) Any requisition or summons sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person at the time when the requisition or summons (as the case may be) would in the ordinary course of post be delivered and, in proving service of the requisition or summons, it is sufficient to prove that the envelope containing the requisition or summons (as the case may be) was properly addressed, stamped and posted by registered post.

138. [Not in use]

Power to make regulations

139.—(1) The designated officer may, in addition to the powers expressly conferred by any other provisions of this Act, make regulations for carrying out the purposes of this Act.

- (2) In particular and without limiting subsection (1), the regulations may —
 - (a) prescribe the circumstances and conditions under which females may be employed as workmen;
 - (aa) regulate the conduct of an employer towards an employee, for the purposes of protecting the employee from any employment practice that may adversely affect the employee's wellbeing;
 - (b) require records to be maintained and prescribe the form and contents thereof and the manner in which they are to be displayed;
 - (c) regulate the method of collecting statistics either in connection with or independently of any other public department, the staff to be employed in

connection therewith, the duties to be performed and the publications (if any) to be issued;

- (d) prescribe the forms and manner in which and the times and places at which particulars or information are to be furnished, and the manner in which the same are to be authenticated, and any other thing which under this Act is required to be prescribed;
- (e) exempt any employer or class of employers from the obligation to furnish particulars or information under this Act, either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions;
- (ea) prescribe any deduction that may be made under section 27(1)(k), and the conditions for the making of that deduction;
- (f) prescribe the form of register to be kept under section 29 and the forms of orders to be made under sections 115 and 119;
- (g) prescribe the fees payable for copies of notes of evidence and decisions recorded under section 119(1)(j);
- (ga) provide for any matter relating to the release of any arrested person on any bail or bond under section 105(5); and
- (h) prescribe the administrative penalties for civil contraventions under Part 15A of an amount not exceeding \$1,000 for each occasion of a civil contravention, and \$2,000 in the case of a second or subsequent occasion of the civil contravention.

(2A) The designated officer may, in making any regulations under this Act, provide that any contravention of the provisions of the regulations shall be an offence punishable with a fine not exceeding —

- (a) \$5,000 in the case of a first conviction; and
- (b) \$10,000 in the case of a second or subsequent conviction for contravening or failing to comply with the same provision within one year after the immediately preceding conviction.

(2B) The designated officer may, in making any regulations mentioned in subsection (2)(aa), prescribe any contravention of any provision of those regulations as a contravention to which section 126A applies, instead of providing for that contravention to be an offence mentioned in subsection (2A).

(3) All regulations made under this Act must be published in the *Gazette*.

(4) The regulations made under this Act may provide for such saving, transitional and other consequential, incidental and supplemental provisions as is necessary or expedient.

Amendment of Schedules

140.—(1) The designated officer may, by order in the *Gazette*, amend any of the Schedules.

(2) The designated officer may, in an order under subsection (1), make such provisions of a saving or transitional nature consequent to the enactment of that order as the designated officer may consider necessary or expedient.

FIRST SCHEDULE

Section 2

WORKMEN

- (1) Cleaners.
- (2) Construction workers.
- (3) Labourers.
- (4) Machine operators and assemblers.
- (5) Metal and machinery workers.
- (6) Train, bus, lorry and van drivers.
- (7) Train and bus inspectors.
- (8) All workmen employed on piece rates in the employer's premises.

SECOND SCHEDULE

Sections 118(1) and 119(1)

REGISTRATION FEE

The registration fee payable by any person making a claim with the Commissioner for Labour is as follows:

(a) where the claim is made by an employee ...	\$3
(b) where the claim is made by an employer ...	\$20.

THIRD SCHEDULE

CALCULATION OF GROSS AND BASIC RATES OF PAY OF AN EMPLOYEE EMPLOYED ON A MONTHLY RATE OR ON PIECE RATES

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Item</i>	<i>Calculation of gross rate of pay</i>	<i>Calculation of basic rate of pay</i>
1. Where an employee is employed on piece rates	<p>The gross rate of pay for one day is to be calculated by dividing the total salary including allowances but excluding—</p> <p class="list-item-l1">(a) additional payments by way of overtime payments;</p> <p class="list-item-l1">(b) additional payments by way of bonus payments or annual wage supplements;</p> <p class="list-item-l1">(c) any sum paid to the employee to reimburse him or her for special expenses incurred by him or her in the course of his or her employment;</p> <p class="list-item-l1">(d) productivity incentive payments; and</p> <p class="list-item-l1">(e) travelling, food and housing allowances,</p>	<p>The basic rate of pay for one day is to be calculated by dividing the total salary including wage adjustments and increments but excluding—</p> <p class="list-item-l1">(a) additional payments by way of overtime payments;</p> <p class="list-item-l1">(b) additional payments by way of bonus payments or annual wage supplements;</p> <p class="list-item-l1">(c) any sum paid to the employee to reimburse him or her for special expenses incurred by him or her in the course of his or her employment;</p> <p class="list-item-l1">(d) productivity incentive payments; and</p> <p class="list-item-l1">(e) any allowance however described,</p>
	<p>earned by the employee during the period of 14 days immediately preceding the date of termination, day of absence or period of absence, holiday, day of leave or period of leave, or benefit period (as the case may be) by the number of days on which the employee actually worked during that period of 14 days.</p>	<p>earned by the employee during the period of 14 days immediately preceding the rest day or holiday (as the case may be) by the number of days on which the employee actually worked during that period of 14 days.</p>
2. Where an employee is employed on a monthly rate of pay and the number of days on which the employee is required to work in a week is the same in every week under his or her contract of service.	<p>The gross rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week:}}$	<p>The basic rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{number of days on which the employee is required to work in a week:}}$
3. Where an employee is employed on a monthly rate of pay and is required under his or her contract of service to work on a certain number of days in one week and on a different number of days in the following week in every period of 2 consecutive weeks	<p>The gross rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks:}}$	<p>The basic rate of pay for one day is to be calculated according to the following formula:</p> $\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{average number of days on which the employee is required to work in a week over any period of 2 consecutive weeks:}}$
4. Where an employee is employed on a monthly rate of pay and is required under his or her contract of service to	<p>The gross rate of pay for one day is to be calculated according to the following formula or such other formula as the Commissioner may approve:</p>	<p>The basic rate of pay for one day is to be calculated according to the following formula or such other formula as the Commissioner may approve:</p>

Employment Act 2025

<i>First column</i>	<i>Second column</i>	<i>Third column</i>
<i>Item</i>	<i>Calculation of gross rate of pay</i>	<i>Calculation of basic rate of pay</i>
work on different number of days in different weeks.	$\frac{12 \times \text{monthly gross rate of pay}}{52 \times \text{average number of working days in a week}}$	$\frac{12 \times \text{monthly basic rate of pay}}{52 \times \text{average number of working days in a week}}$

5. In this Schedule —

“average number of working days in a week” means —

- (a) for the purposes of calculating, under section 11(1), the salary that is payable in lieu of notice of termination —
 - (i) the average number of days on which the employee was required, under his or her contract of service, to work in a week over the period of 3 weeks immediately preceding the termination of the contract; or
 - (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee would have been required to work in a week over the first 3 weeks of his or her employment, if the contract of service had not been terminated;
- (b) for the purposes of calculating, under section 28(2), the salary that may be deducted for absence from work —
 - (i) the average number of days on which the employee was required, under his or her contract of service, to work in a week over the period of 3 weeks immediately preceding the day of absence or period of absence, as the case may be; or
 - (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his or her contract of service in a week over the period of 3 weeks immediately following the day of absence or period of absence, as the case may be;
- (c) in any other case —
 - (i) the average number of days on which the employee was required, under his or her contract of service, to work in a week over the period of 3 weeks immediately preceding the rest day, holiday, day of leave or period of leave, as the case may be; or
 - (ii) where the employee was in employment for less than 3 weeks, the average number of days on which the employee was required to work under his or her contract of service in a week over the period of 3 weeks immediately following the rest day, holiday, day of leave or period of leave, as the case may be;

“week” means a continuous period of 7 days commencing at midnight on Sunday.

6. Paragraphs (a) and (b) of the definition of “average number of working days in a week” in item 5 are not applicable in the third column.

7. In calculating the number of working days in a week or the average number of working days in a week, any day on which an employee is required to work for 5 hours or less under his or her contract of service is to be regarded as half a day.

FOURTH SCHEDULE

Section 38(6)

EMPLOYEE'S HOURLY BASIC RATE OF PAY FOR CALCULATION OF PAYMENT DUE FOR OVERTIME

<i>First column</i>	<i>Second column</i>
<i>Type of employee</i>	<i>Calculation of hourly basic rate of pay</i>
1. A workman employed on a monthly rate of pay	<u>12 x monthly basic rate of pay</u> 52 x 44
2. A non-workman employed on a monthly basic rate of pay	<u>12xmonthly basic rate of pay</u> 52x44
3. [Not in use]	
4. A workman employed on piece rates	The total weekly pay at the basic rate of pay received divided by the total number of hours worked in the week
5. A non-workman employed on piece rates	The total weekly pay at the basic rate of pay received divided by the total number of hours worked in the week
6. A workman employed on an hourly rate of pay	Actual hourly basic rate of pay
7. A non-workman employed on an hourly rate of pay	Actual hourly basic rate of pay
8. A workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day
9. A non-workman employed on a daily rate of pay	Daily basic rate of pay divided by the number of working hours per day

FIFTH SCHEDULE

Section 76(1)

NUMBER OF DAYS ON WHICH A FEMALE EMPLOYEE IS ENTITLED TO ABSENT HERSELF FROM WORK UNDER SECTION 76(1)(c)(II)

<i>First column</i>	<i>Second column</i>
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Employment Act 2025

Number of days on which a female employee is required to work under her contract of service (called in this Schedule her work days)

Calculation of total number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) for one or more periods

1. Where the number of work days in a week is the same in every week. $4 \times$ the number of work days in a week
2. Where the number of work days varies from one week to another and there is a consistent or regular pattern repeated over a number of fixed weeks.

$$\frac{4 \times \text{the total number of work days in the number of fixed weeks}}{\text{The number of fixed weeks}}$$
3. Where the number of work days varies from one week to another and there is no consistent or regular pattern repeated over a number of fixed weeks.
 $4 \times$ the average number of work days in a week over the period of 3 weeks immediately preceding the day of confinement or the first day of leave, whichever is the earlier
4. In this Schedule, the calculation of the number of days on which a female employee is entitled to absent herself from work under section 76(1)(c)(ii) is to be determined in accordance with her work pattern under her contract of service immediately preceding the day of confinement or the first day of leave, whichever is the earlier.
5. In this Schedule, where the number of days in the second column is not a whole number, that number is to be rounded down to the nearest half day or whole day.
6. In this Schedule —
 - “week” means a continuous period of 7 days commencing at midnight on Sunday;
 - “work pattern” means a work pattern described in item 1, 2 or 3 in the first column.
7. In calculating the number of work days, any day on which a female employee is required to work for 5 hours or shorter under her contract of service is to be regarded as half a day.