

ARRANGEMENT OF SECTIONS*Section***PART I-PRELIMINARY 1.**

Scope of application

**PART II-PUBLIC EMPLOYMENT CENTRES AND
PRIVATE EMPLOYMENT AGENCIES**

2. Establishment of Public Employment Centres and registration of private employment agencies
3. Functions of the Centres
4. Registration of unemployed persons
5. Employment through Centres or Agencies
6. Employment data
7. Private Employment Agencies

PART III-PROTECTION OF EMPLOYMENT

8. Rights of employers
9. Duties of employers
10. Rights of a worker
11. Duties of workers
12. Contract of employment
13. Written statement of particulars of contract of employment
14. Prohibition of restrictive conditions of employment
15. Grounds for termination of employment
16. Types of contract of employment
17. Notice of termination of employment
18. Remuneration on termination of employment
19. Exception

PART IV-GENERAL CONDITIONS OF EMPLOYMENT**Sub-Part I-Annual leave with pay**

20. Leave entitlement
21. Continuous service
22. Interruption of work by public holidays, sickness of worker etc.
23. Interruption of work by voluntary communal work, civic duties and special leave.
24. Sick leave not part of annual leave
25. Leave to be uninterrupted
26. Employer to bear cost of leave interruption

Act 651**Labour Act, 2003**

- 27. Record of employment, leave
- 28. Worker may take leave in two equal parts
- 29. Leave entitlement to be restored to suspended worker on reinstatement
- 30. Termination of employment not to affect leave entitlement earned
- 31. Agreement to forgo leave to be void
- 32. Sub-Part not applicable to family concerns

Sub-Part II-Hours of work

- 33. Maximum hours of work
- 34. Different hours of work
- 35. Paid Overtime
- 36. Shifts
- 37. Manuallabourers
- 38. Unpaid overtime
- 39. Commencement and dosing of work

Sub-Part III-Rest periods

- 40. Undertakings to which this Sub-Part applies 41.
Daily rest period
- 42. Weekly rest period
- 43. Rest periods not to include public holidays 44.
Exceptions

PART V-EMPLOYMENT OF PERSONS WITH DISABILITY

- 45. Registration of persons with disability
- 46. Special Incentives
- 47. Notification of employment of persons with disability
- 48. Particulars of contract of employment
- 49. Persons with disability in public service posts
- 50. Employment not to cease upon disablement
- 51. Length of notice of termination
- 52. Transfer of persons with disability
- 53. Training
- 54. Part to be read as one with other relevant enactments

PART VI-EMPLOYMENT OF WOMEN

- 55. Night work or overtime by pregnant women
- 56. Prohibition of assignment of pregnant women 57.
Maternity, annual and sick leave

PART VII-EMPLOYMENT OF YOUNG PERSONS

- 58. Prohibition of employment of young persons in hazardous work
- 59. Health of young persons
- 60. Registration of young persons
- 61. Interpretation

**PART VIII-FAIR AND UNFAIR TERMINATION OF
EMPLOYMENT**

- 62. Fair termination
- 63. Unfair termination of employment
- 64. Remedies for unfair termination 65.
Redundancy
- 66. Exceptions

PART IX-PROTECTION OF REMUNERATION

- 67. Payment of remuneration
- 68. Equal pay for equal work
- 69. Prohibited deductions
- 70. Permitted deductions
- 71. Employer not to compel workers to use its store
- 7L Paid public holidays

**PART X-SPECIAL PROVISIONS RELATING TO TEMPORARY
WORKERS****AND CASUAL WORKERS**

- 73. Right to employ and application of this Part
- 74. Casual worker
- 75. Temporary worker
- 76. Remuneration of temporary and casual workers
- 77. Payment of remuneration for public holidays 78.
Interpretation

**PART XI-TRADE UNIONS AND EMPLOYERS'
ORGANISATIONS**

- 79. Freedom of Association
- 80. Formation of trade union or employers' organisation
- 81. Organisational rights
- 82. Independence of trade unions and employers organisations 83.
Application for registration
- 84. Certificate of registration

- 85. Rules of trade unions and employers' organisations
- 86. Register of trade unions and employers' organisations
- 87. Protection against discrimination
- 88. Effect of registration
- 89. Change of Name
- 90. Amalgamation
- 91. Registration of change of name and amalgamation
- 92. Alteration of rules
- 93. Federation
- 94. Accounts and audit
- 95. Audited financial statements

PART XII-COLLECTIVE AGREEMENT

- 96. Collective agreement
- 97. Duty to negotiate in good faith
- 98. Contents of collective agreement
- 99. Collective bargaining certificate
- 100. Variation of certificate
- 101. Negotiating committees
- 102. Negotiations by negotiating committee or joint negotiating committee
- 103. Negotiations may be conducted by a union officer or member
- 104. Failure to negotiate
- 105. Effect of collective agreement
- 106. Notice of collective agreement to workers
- 107. Duration of collective agreements
- 108. Provision for dispute settlement
- 109. Power to extend collective agreements
- 110. Effect of extension of collective agreements
- 111. Union dues

PART-XIII NATIONAL TRIPARTITE COMMITTEE

- 112. Establishment of National Tripartite Committee
- 113. Functions of the National Tripartite Committee
- 114. Meetings of the National Tripartite Committee
- 115. Regional and District Tripartite Committees

PART XIV-FORCED LABOUR

- 116. Prohibition of forced labour
- 117. Interpretation of "forced labour"

PART XV-OCCUPATIONAL HEALTH, SAFETY AND ENVIRONMENT

- 118. General health and safety conditions
- 119. Exposure to imminent hazards
- 120. Employer to report occupational accidents and diseases
- 121. Specific measures

PARTXVI-LABOUR

INSPECTION

- 122. Labour inspection
- 123. Appointment of inspectors
- 124. Powers of labour inspectors
- 125. Inspectors to maintain confidentiality
- 126. Obstruction of inspectors

PART XVII-UNFAIR LABOUR PRACTICES

- 127. Discrimination
- 128. Interference by employers in union affairs
- 129. Employer to facilitate workers trade union business
- 130. Interference that causes financial loss
- 131. Union activities during working hours
- 132. Complaints

PART XVIII-NATIONAL LABOUR COMMISSION

Sub-Part I-Establishment and Functions of the National Labour Commission

- 135. Establishment of Commission
- 136. Composition of the Commission
- 137. Qualification of chairperson and other members of the Commission
- 138. Functions and independence of the Commission
- 139. Powers of the Commission
- 140. Meetings of the Commission
- 141. Committees of the Commission
- 142. Allowances for members of the Commission
- 143. Tenure of office of members
- 144. Regional and District Committees of the Commission
- 145. Functions of a Regional or District Committee
- 146. Meetings of a Regional or a District Committee
- 147. Secretariat for the Commission

- 148. Expenditure of the Commission
- 149. Accounts and audit
- 150. *Reports* from Regional and District Labour Committees
- 151. Annual reports of the Commission
- 152. Regulations by the Commission

Sub-Part II-Settlement of industrial disputes

- 153. Settlement by negotiation
- 154. Mediation
- 155. List of mediators and arbitrators
- 156. Appointment of arbitrators
- 157. Voluntary arbitration
- 158. Arbitration award
- 159. Notice of intention to resort to strike or lockout
- 160. Strike and lockout
- 161. Cooling-off period
- 162. Essential services
- 163. Prohibition of strike or lockout in respect of essential services
- 164. Compulsory reference to arbitration
- 165. *Powers* of arbitrators
- 166. Vacancy in arbitration panel
- 167. Publication of compulsory arbitration award and effect of arbitration awards on existing employment contracts

P ART XIX-STRIKES

- 168. Illegal strike and lockout
- 169. Legal effect of lawful strike or lockout
- 170. Temporary replacement of labour
- 171. Picketing

PART XX-MISCELLANEOUS

- 172. Enforcement of orders of the Commission
- 173. Offences by body of persons
- 174. Regulations
- 175. Interpretation
- 176. Modification of existing enactments
- 177. Repeals and amendment
- 178. Savings and transitional provisions
- 179. Commencement

SCHEDULES



THE SIX HUNDRED AND FIFTY-FIRST

ACT

OF THE PARLIAMENT OF THE REPUBLIC

OF GHANA

ENTITLED LABOUR ACT, 2003

AN ACT to amend and consolidate the laws relating to labour, employers, trade unions and industrial relations; to establish a National Labour Commission and to provide for matters related to these.

DATE OF ASSENT: *8th October, 2003.*

BE IT ENACTED by Parliament as follows:

PART I-PRELIMINARY

Scope of application

1. This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526).

PART II-PUBLIC EMPLOYMENT CENTRES AND

FEE-CHARGING EMPLOYMENT AGENCIES Establishment of Public Employment Centres and registration of private employment agencies

2. (1) The Minister shall by Executive Instrument establish Public Employment *Centres* for the discharge of the functions stated in section 3.

(2) A *Centre* established under subsection (1) is answerable to the Minister.

Functions of the Centres

3. Each Centre shall

- (a) assist unemployed and employed persons to find suitable employment and assist employers to find suitable workers from among such persons;
- (b) take appropriate measures to
 - (i) facilitate occupational mobility with a view to adjusting the supply of labour to employment opportunities in the various occupations;
 - (ii) facilitate geographical mobility with a view to assisting the movement of unemployed and employed persons to areas with suitable employment opportunities; and
 - (iii) facilitate temporary transfers of unemployed and employed persons from one place to another as a means of meeting temporary local maladjustment in the supply of or demand for unemployed persons;
- (c) assist in social and economic planning by providing labour market information to stakeholders to ensure a favourable employment situation;
- (d) provide vocational guidance facilities to young persons;
- (e) provide arrangements for the registration, employment, training and retraining of persons with disability; and
- (f) provide arrangements for the registration of employed and unemployed persons
 - (i) with recognised technical, vocational or professional qualifications or those without these qualifications but have had experience of a level higher than that of an artisan;
 - (ii) who are of the level of supervisors or foremen;
 - (iii) with experience at administrative, managerial or senior executive levels; and
 - (iv) who have received training at the tertiary level.

Registration of unemployed persons

4. (1) An unemployed person may make an application in the prescribed form to the appropriate Centre for registration in the appropriate register.
- (2) On receipt of the application, the officer in charge of the Centre shall enter the particulars of the application in the appropriate register and issue to the applicant a certificate of registration in the prescribed form.

Employment through Centres or Agencies

5. An employer may employ any worker either through a Centre or a Private Employment Agency.

Employment data

6. (1) The Chief Labour Officer or an officer authorised by the Chief Labour Officer shall, submit to every employer a questionnaire relating to employment of workers by the employer within the respective Centre.

(2) The employer shall complete and return the questionnaire to the Chief Labour Officer or the authorised officer within fourteen days after the expiry of every three months./

(3) Where an employer fails or refuses to complete and return the questionnaire as required under subsection (2) the Chief Labour Officer shall direct the employer to do so within a specified time, and the employer shall comply with the direction.

Private Employment Agencies

7. (1) A person shall not establish or operate a Private Employment Agency unless that person is a corporate body, has applied to, and has been granted a licence by, the Minister.

(2) A licence granted by the Minister under subsection (1) shall, subject to the terms and conditions stipulated in the licence, be valid for a period of twelve months.

(3) The licence of an Agency may be renewed for a period of twelve months upon application made to the Minister.

(4) There shall be paid by an Agency for the issue or renewal of the licence such fee as the Minister may by legislative instrument prescribe.

(5) An Agency may recruit workers for employment in a country outside Ghana if it is authorised to do so under its licence and if there exists an agreement between the Government and that other country.

(6) An Agency shall submit to the Minister not later than fourteen days after the end of every three months returns in respect of workers recruited for employment, whether in Ghana or outside Ghana, during that period.

(7) An Agency shall refund fifty percent of the fees paid by a client to the Agency, if the the Agency is unable to secure a job placement for the client after the expiration of three months.

(8) The Minister shall revoke the licence of any Agency that fails to comply with subsection (6).

PART III-PROTECTION OF EMPLOYMENT

Rights of employer

8. Subject to this Act and any other enactment, the rights of an employer include the right to

- (a) employ a worker, discipline, transfer, promote and terminate the employment of the worker;
- (b) formulate policies, execute plans and programmes to set targets; (c) modify, extend or cease operations; and
- (d) determine the type of products to make or sell and the prices of its goods and services.

Duties of employers

9. Without prejudice to the provisions of this Act and any other enactment for the time being in force, in any contract of employment or collective agreement, the duties of an employer include the duty to

- (a) provide work and appropriate raw materials, machinery, equipment and tools;
- (b) pay the agreed remuneration at the time and place agreed on in the contract of employment or collective agreement or by custom without any deduction except deduction permitted by law or agreed between the employer and the worker;
- (c) take all practicable steps to ensure that the worker is free from risk of personal injury or damage to his or her health during and in the course of the worker's employment or while lawfully on the employer's premises;
- (d) develop the human resources by way of training and retraining of the workers;
- (e) provide and ensure the operation of an adequate procedure for discipline of the workers;
- (j) furnish the worker with a copy of the worker's contract of employment;
- (g) keep open the channels of communication with the workers; and
- (h) protect the interests of the workers.

Rights of a worker

10. The rights of a worker include the right to

- (a) work under satisfactory, safe and healthy conditions;
- (b) receive equal pay for equal work without distinction of any

kind;

- (c) have rest, leisure and reasonable limitation of working hours and period of holidays with pay as well as remuneration for public holidays;
- (d) form or join a trade union;
- (e) be trained and retrained for the development of his or her skills; and
- (j) receive information relevant to his or her work.

Duties of workers

11. Without prejudice to the provisions of this Act, the duties of a worker in any contract of employment or collective agreement, include the duty to

- (a) work conscientiously in the lawfully chosen occupation;
- (b) report for work regularly and punctually;
- (c) enhance productivity;
- (d) exercise due care in the execution of assigned work;
- (e) obey lawful instructions regarding the organisation and execution of his or her work;
- (j) take all reasonable care for the safety and health of fellow workers; (g) protect the interests of the employer; and
- (h) take proper care of the property of the employer entrusted to the worker or under the immediate control of the worker.

Contract of employment

12. (1) The employment of a worker by an employer for a period of six months or more or for a number of working days equivalent to six months or more within a year shall be secured by a written contract of employment.

(2) A contract of employment shall express in clear terms the rights and obligations of the parties.

Written statement of particulars of contract of employment

13. Subject to the terms and conditions of a contract of employment between an employer and a worker, the employer shall within two months after the commencement of the employment furnish the worker with written statement of the particulars of the main terms of the contract of employment in the form set out in Schedule 1 to this Act signed by the employer and the worker.

Prohibition of restrictive conditions of employment

14. An employer shall not in respect of any person seeking employment, or

from forming or joining a trade union of his or her choice;

(h) require that person to participate or refrain from participating in the lawful activities of a trade union;

(c) refuse to employ the person because of that person's membership of a trade union;

(d) promise the person any benefit or advantage for not participating in trade union activities; or

(e) discriminate against the person on grounds of gender, race, colour, ethnic origin, religion, creed, social or economic status, disability or politics.

Grounds for termination of employment

15. A contract of employment may be terminated.

(a) by mutual agreement between the employer and the worker;

(b) by the worker on grounds of ill-treatment or sexual harassment;

(c) by the employer on the death of the worker before the expiration of the period of employment;

(d) by the employer if the worker is found on medical examination to be unfit for employment;

(e) by the employer because of the inability of the worker to carry

Types of contract of employment

16. Where by a contract of employment a worker is entitled to be paid,

(a) remuneration at a monthly rate, the contract is a contract from month to month;

(b) remuneration at a weekly rate, the contract is a contract from week to week; or

(c) remuneration at a rate other than monthly or weekly rate, the contract is a contract determinable at will.

Notice of termination of employment

17. (1) A contract of employment may be terminated at anytime by either party giving to the other party,

(a) in the case of a contract of three years or more, one month's notice or one month's pay in lieu of notice;

(b) in the case of a contract of less than three years, two weeks' notice or two weeks' pay in lieu of notice; or

(c) in the case of contract from week to week, seven days' notice.

(2) A contract of employment determinable at will by either party may be terminated at the close of any day without notice.

(3) A notice required to be given under this section shall be in writing.

(4) The day on which the notice is given shall be included in the period of the notice.

Remuneration on termination of employment

18. (1) When a contract of employment is terminated in the manner stated in section 15, the employer shall pay to the worker,

(a) any remuneration earned by the worker before the termination;

(b) any deferred pay due to the worker before the termination; (c) any compensation due to the worker in respect of sickness or accident; and

(d) in the case of foreign contract, the expenses and necessaries for the journey and repatriation expenses in respect of the worker and accompanying members of his or her family in addition to any or all of the payments specified in paragraphs (a), (b) and (c) of this subsection.

(2) The employer shall pay to the worker not later than the date of expiration of the notice all remuneration due to the worker as at that date.

(3) Where no notice is required, the payment of all remuneration due shall be made not later than the next working day after the termination.

(4) Notwithstanding section 17(1), either party to a contract of employment may terminate the contract without notice if that party pays to the other party a sum equal to the amount of remuneration which would have accrued to the worker during the period of the notice.

Exception

19. The provisions of sections 15, 16, 17 and 18 are not applicable where in a collective agreement there are express provisions with respect to the terms and conditions for termination of the contract of employment which are more beneficial to the worker.

PART IV—GENERAL CONDITIONS OF
EMPLOYMENT Sub-Part I—Annual leave with pay

Leave entitlement

20. (1) In any undertaking every worker is entitled to not less than fifteen working days leave with full pay in any calendar year of continuous service.

(2) The expression "full pay" means the worker's normal remuneration, without overtime payment, including the cash equivalent of any remuneration in kind.

Continuous service

21. (1) Continuity of service shall not be regarded as interrupted by mere change of ownership or management of the undertaking.

(2) Where the work is not regularly maintained throughout the year, the requirement of continuous service shall be deemed to have been met if the worker has worked for not less than two hundred days in the particular year.

Interruption of work by public holidays, sickness of worker

22. Public holidays and absence from duty due to sickness certified by a medical practitioner, and pregnancy and confinement, shall not affect the annual leave entitlement of a worker.

Interruption of work by voluntary communal work, civic duties and special leave

23. A period during which a worker is absent from his or her normal duties with the permission of the employer on account of the worker's participation in voluntary communal work, the discharge of civic duties or the granting of special leave with or without pay, shall not be counted as part of the worker's annual leave.

Sick leave not part of annual leave

24. A period of absence from work allowed owing to sickness, which is certified by a medical practitioner, and which occurs after the commencement of and during annual leave shall not be computed as part of the leave.

Leave to be uninterrupted

25. (1) Every worker is entitled to enjoy an unbroken period of leave but an employer, in cases of urgent necessity, may in accordance with this section, require a worker to interrupt his or her leave and return to work.

(2) Where a worker is required by the employer to interrupt his or her leave in the circumstances specified in subsection (1) the worker shall not forfeit the right to the remainder of the leave but shall take the leave anytime thereafter.

(3) Where a worker takes his or her annual leave at the end of a calendar year, the leave may continue except as provided in subsection (1) without interruption, into the following year.

Employer to bear cost of leave interruption

26. Any employer who requires a worker to interrupt his or her annual leave in the circumstances stated in section 25, shall make up to the worker any reasonable expense incurred on account of the interruption, and also resumption of the leave by the worker.

Record of employment, leave

27. (1) A worker shall, as much as may be possible, be given notice of the date of commencement of his or her annual leave, at least, thirty days before the worker takes the leave.

(2) Every employer is required to keep a record showing the following particulars,

(a) the date of employment of each worker employed by the employer and the duration of the annual leave to which the worker is entitled;

(b) the dates on which the annual leave is taken by each worker;

and

(c) the remuneration received by each worker in respect of the annual leave.

Worker may take leave in two equal parts

28. Without prejudice to the provisions of this Sub-Part, a worker may be permitted to take his or her annual leave in two approximate equal parts.

Leave entitlement to be restored to suspended worker on reinstatement

29. Where a worker, suspended from the service of his or her employer prior to disciplinary or criminal proceedings being taken against him or her is reinstated, the worker shall be entitled to take the leave he or she would have had if he or she had not been suspended.

Termination of employment not to affect leave entitlement earned

30. (1) Where the employment of a worker is terminated, the worker is entitled to annual leave in proportion to the period of service in the calendar year.

(2) The worker shall not be deprived of any other grants or awards to which the worker is entitled including payment in lieu of notice of termination.

(3) Subsections (1) and (2) do not apply to cases where the employer has the right to dismiss a worker without notice.

Agreement to forgo leave to be void

31. Any agreement to relinquish the entitlement to annual leave or to forgo such leave is void.

Sub-Part not applicable to family concerns

32. This Sub-Part does not apply to a person employed in an undertaking in which only members of the family of the employer are employed.

Sub-Part II-Hours of work

Maximum hours of work

33. The hours of work of a worker shall be a maximum of eight hours a day or forty hours a week except in cases expressly provided for in this Act.

Different hours of work

34. The rules of any undertaking or its branch may prescribe hours of work different from eight hours a day on one or more days in the week, subject to the following,

- (a) where shorter hours of work are fixed, the hours of work on the other days of the week may be proportionately longer than eight hours but shall not exceed nine hours a day or a total of forty hours a week;
- (b) where longer hours of work are fixed the average number of hours of work reckoned over a period of four weeks or less shall not exceed eight hours a day or forty hours a week; or
- (c) in the case of an undertaking the work of which is of a seasonal nature, where longer hours of work are fixed, the average number of hours of work over a period of one year shall not exceed eight hours a day except that the hours of work which may be fixed under this paragraph shall not exceed ten hours a day.

Paid overtime

35. (1) Subject to subsections (2) and (3), where a worker in an undertaking works after the hours of work fixed by the rules of that undertaking, the additional hours shall be regarded as overtime work.

(2) A worker in any such undertaking may not be required to do overtime work unless that undertaking has fixed rates of pay for overtime work.

(3) A worker shall not be compelled to do overtime work except for undertakings or enterprises

- (a) the very nature of which requires overtime in order to be viable; or
- (b) which are subject to emergencies that require that workers engage in overtime work in order to prevent or avoid threat to life and property.

Shifts

36. Workers may be employed in shifts, but the average number of hours reckoned over a period of four weeks or less shall not exceed eight hours a day or forty hours a week if there is an established time-table for the shifts.

Manual labourers

37. (1) The Minister may prescribe shorter hours of work for workers in jobs declared to be manual labour and in jobs likely to be injurious to health.

(2) Work for which shorter hours are prescribed under section (1) shall be deemed to be equivalent to work done on the basis of eight hours a day for the purposes of all rights which may flow from the employment.

Unpaid overtime

38. Notwithstanding section 35, a worker may be required to work beyond the fixed hours of work without additional pay in certain exceptional circumstances including an accident threatening human lives or the very existence of the undertaking.

Commencement and closing of work

39. The time of commencement and closing of a worker's hours of work in any undertaking shall be fixed by the rules of the undertaking concerned subject to the following:

- (a) in the case of operations underground, work commences when the worker enters the cage or lift to go down and ends when the worker leaves it at the surface; and
- (b) in the case of operations underground, where the work place is reached by going down a gallery, the hours of work is reckoned from the time when the worker enters the gallery to the time when he or she leaves it at the surface.

Sub-Part III-Rest periods

Undertakings to which this Sub-Part applies

40. In any undertaking

- (a) where the normal hours of work are continuous, a worker is

entitled to at least thirty minutes break in the course of the work, but the break forms part of the normal hours of work; and

(b) where the normal hours of work are, in two parts, the break should not be of less than one hour duration and does not form part of the normal hours of work.

Daily rest period

41. (1) Without prejudice to section 40, a worker shall be granted a daily continuous rest of at least twelve hours duration between two consecutive working days.

(2) The daily rest of the worker in an undertaking operating on a seasonal basis may be of less than ten hours but of not more than twelve hours' duration over a period of at least sixty consecutive days in the calendar year.

Weekly rest period

42. A worker shall, in addition to the rest periods provided in sections 40 and 41, be given a rest period of forty-eight consecutive hours, in every seven days of normal working hours, and the rest period may, for preference, start from Saturday and end on the Sunday following and shall wherever possible, be granted to all of the workers of the undertaking.

Rest periods not to include public holidays

43. The rest periods specified in this Sub-Part do not include public holidays.

Exceptions

44. This Sub-Part and sections 33 and 34 do not apply to task workers or domestic workers in private homes.

PART V-EMPLOYMENT OF PERSONS WITH DISABILITY

Registration of persons with disability

45. (1) A person with disability may apply to the Centre for registration.

(2) The Centre shall upon registration of a person with disability issue the person a certificate of registration in a form determined by the Chief Labour Officer.

Special incentive

46. (1) Special incentives shall be provided to an employer who employs persons with disability.

(2) Special incentives shall be given to a person with disability engaged

(3) The special incentives shall be determined by the Minister.

Notification of employment of persons with disability

47. An employer who employs a person with disability shall notify the nearest Centre of the employment and where the employer fails to do so, the Chief Labour Officer shall direct the employer to comply.

Particulars of contract of employment

48. A contract of employment with a person with disability shall include the particulars of the job or post, the working hours, amount of remuneration,

transport facilities, and any special privileges which that person shall be accorded by virtue of the employment.

Persons with disability in public service posts

49. Persons with disability who enter the public service shall be appointed on the same terms as persons without disability, irrespective of whether they are allowed to work fewer hours; and shall be classified in accordance with their previous period of qualifying service for the purposes of promotion and other public service awards.

Employment not to cease upon disablement

50. The employment of a person who suffers disability after the employment, shall not cease if his or her residual capacity for work is such that he or she can be found employment in the same or some other corresponding job in the same undertaking, but if no such corresponding job can be found, the employment may be terminated by notice.

Length of notice of termination

51. The length of notice of termination required to be given in the case of a person with disability shall not be shorter than one month.

Transfer of persons with disability

52. (1) Subject to subsection (2), a person with disability in employment may be transferred to another job within the same undertaking if the other job can be regarded in the light of all relevant circumstances as a corresponding job.

(2) The relevant circumstances mentioned in subsection (1) in relation to a person with disability include

- (a) the person's qualifications;
- (b) the person's physical condition;
- (c) the person's place of residence; and
- (d) whether the transfer may worsen the conditions in which the person entered the employment.

Training

53. Where it is necessary to train or retrain a person with disability to overcome any aspect of his or her disability in order to cope with any aspect of the person's employment, the employer may provide or arrange at the employer's expense the training or retraining for the person.

Part to be read as one with other relevant enactment

54. This Part shall be read as one with any enactment on the employment of persons with disability and where there is a conflict, the provisions of this Part shall prevail.

PART VI-EMPLOYMENT OF WOMEN

Night work or overtime by pregnant women

55. (1) Unless with her consent, an employer shall not
- (a) assign or employ a pregnant woman worker to do any night work between the hours often o'clock in the evening and seven o'clock in the morning;
 - (b) engage for overtime a pregnant woman worker or a mother of a child of less than eight months old.

(2) The pregnant woman worker or the mother may present a written complaint to the National Labour Commission established under section 135 against an employer who contravenes subsection (1).

(3) The Commission shall investigate the complaint and its decision on the matter shall subject to any other law be final.

Prohibition of assignment of pregnant women

56. (1) An employer shall not assign, whether permanently or temporarily, a pregnant woman worker to a post outside her place of residence after the completion of the fourth month of pregnancy, if the assignment, in the opinion of a medical practitioner or midwife, is detrimental to her health.

(2) The pregnant woman worker may present a written complaint to the Commission against the employer who contravenes subsection (1).

(3) The Commission shall investigate the complaint and its decision on the matter shall, subject to any other law, be final.

Maternity, annual and sick leave

57. (1) A woman worker, on production of a medical certificate issued by a medical practitioner or a midwife indicating the expected date of her confinement, is entitled to a period of maternity leave of at least twelve weeks in addition to any period of annual leave she is entitled after her period of confinement.

(2) A woman worker on maternity leave is entitled to be paid her full remuneration and other benefits to which she is otherwise entitled.

(3) The period of maternity leave may be extended for at least two additional weeks where the confinement is abnormal or where in the course of the same confinement two or more babies are born.

(4) Where an illness, medically certified by a medical practitioner, is due to her pregnancy, the woman worker is entitled to additional leave as certified by the medical practitioner.

(5) Where an illness, medically certified by a medical practitioner, is due to her confinement the woman worker is entitled to an extension of the leave after confinement as certified by the medical practitioner.

(6) A nursing mother is entitled to interrupt her work for an hour during her working hours to nurse her baby.

(7) Interruptions of work by a nursing mother for the purpose of nursing her baby shall be treated as working hours and paid for accordingly.

(8) An employer shall not dismiss a woman worker because of her absence from work on maternity leave.

(9) In this Part

(a) "night work" in relation to women, means work at any time within a period of eleven consecutive hours that includes the seven consecutive hours occurring between ten o'clock in the evening and seven o'clock in the morning but in industrial undertakings which are influenced by the seasons, the work may be reduced to ten hours in sixty days of the year;

(b) "nursing mother" means a woman with a child suckling at her breast for a period of not more than one year.

PART VII-EMPLOYMENT OF YOUNG PERSONS

Prohibition of employment of young persons in hazardous work

58. (1) A young person shall not be engaged in any type of employment or work likely to expose the person to physical or moral hazard.

(2) The Minister may, by legislative instrument determine the type of employment that is likely to expose a young person to physical or moral hazard.

(3) An employer shall not employ a young person in an underground mine work.

(4) A person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

Health of young persons

59. (1) An employer shall not employ a young person on any work unless a medical practitioner has certified that the young person is in good health and is medically fit for the work.

(2) Where a person fails to comply with subsection (1) the person shall be ordered by the Minister to have the medical examination conducted.

Registration of young persons

60. (1) An employer in an industrial undertaking shall keep a register of young persons employed by him or her and their dates of birth or their apparent ages.

(2) The Chief Labour Officer shall direct an employer who fails to comply with subsection (1) to do so within a specified time, and the employer shall comply with the direction.

Interpretation

61. In this Part,

"industrial undertakings" include

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) undertakings in which articles are manufactured, 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 building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.

PART VIII-FAIR AND UNFAIR TERMINATION OF
EMPLOYMENT

Fair termination

62. A termination of a worker's employment is fair if the contract of employment is terminated by the employer on any of the following grounds:

- (a) that the worker is incompetent or lacks the qualification in relation to the work for which the worker is employed;
- (b) the proven misconduct of the worker;
- (c) redundancy under section 65;

- (d) due to legal restriction imposed on the worker prohibiting the worker from performing the work for which he or she is employed.

Unfair termination of employment

63. (1) The employment of a worker shall not be unfairly terminated by the worker's employer.

(2) A worker's employment is terminated unfairly if the only reason for the termination is

- (a) that the worker has joined, intends to join or has ceased to be a member of a trade union or intends to take part in the activities of a trade union;
- (b) that the worker seeks office as, or is acting or has acted in the capacity of, a workers' representative;
- (c) that the worker has filed a complaint or participated in proceedings against the employer involving alleged violation of this Act or any other enactment;
- (d) the worker's gender, race, colour, ethnicity, origin, religion, creed, social, political or economic status;
- (e) in the case of a woman worker, due to the pregnancy of the worker or the absence of the worker from work during maternity leave;
- (f) in the case of a worker with a disability, due to the worker's disability;
- (g) that the worker is temporarily ill or injured and this is certified by a recognised medical practitioner;
- (h) that the worker does not possess the current level of qualification required in relation to the work for which the worker was employed which is different from the level of qualification required at the commencement of his or her employment; or
- (i) that the worker refused or indicated an intention to refuse to do any work normally done by a worker who at the time was taking part in a lawful strike unless the work is necessary to prevent actual danger to life, personal safety or health or the maintenance of plant and equipment.

(3) Without limiting the provisions of subsection (2). a worker's employment is deemed to be unfairly terminated if with or without notice to

the employer, the worker terminates the contract of employment

- (a) because of ill-treatment of the worker by the employer, having regard to the circumstances of the case; or
 - (b) because the employer has failed to take action on repeated complaints of sexual harassment of the worker at the work place.
- (4) A termination may be unfair if the employer fails to prove that,
- (a) the reason for the termination is fair; or
 - (b) the termination was made in accordance with a fair procedure or this Act.

Remedies for unfair termination

64. (1) A worker who claims that the employment of the worker has been unfairly terminated by the worker's employer may present a complaint to the Commission.

(2) If upon investigation of the complaint the Commission finds that the termination of the employment is unfair, it may

- (a) order the employer to re-instate the worker from the date of the termination of employment;
- (b) order the employer to re-employ the worker, either in the work for which the worker was employed before the termination or in other reasonably suitable work on the same terms and conditions enjoyed by the worker before the termination; or
- (c) order the employer to pay compensation to the worker.

Redundancy

65. (1) When an employer contemplates the introduction of major changes in production, programme, organisation, structure or technology of an undertaking that are likely to entail terminations of employment of workers in the undertaking, the employer shall

- (a) provide in writing to the Chief Labour Officer and the trade union concerned, not later than three months before the contemplated changes, all relevant information including the reasons for any termination, the number and categories of workers likely to be affected and the period within which any termination is to be carried out; and
- (b) consult the trade union concerned on measures to be taken to avert or minimize the termination as well as measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.

(2) Without prejudice to subsection (1), where an undertaking is closed down or undergoes an arrangement or amalgamation and the close down, arrangement or amalgamation causes

- (a) severance of the legal relationship of worker and employer as it existed immediately before the close down, arrangement or amalgamation; and
- (b) as a result of and in addition to the severance that worker becomes unemployed or suffers any diminution in the terms and conditions of employment,

the worker is entitled to be paid by the undertaking at which that worker was immediately employed prior to the close down, arrangement or amalgamation, compensation, in this section referred to as "redundancy pay".

(3) In determining whether a worker has suffered any diminution in his or her terms and conditions of employment, account shall be taken of the past services and accumulated benefits, if any, of the worker in respect of the employment with the undertaking before the changes were carried out.

(4) The amount of redundancy pay and the terms and conditions of payment are matters which are subject to negotiation between the employer or a representative of the employer on the one hand and the worker or the trade union concerned on the other.

(5) Any dispute that concerns the redundancy pay and the terms and conditions of payment may be referred to the Commission by the aggrieved party for settlement, and the decision of the Commission shall be final.

Exceptions

66. The provisions of this Part do not apply to the following categories of workers:

- (a) workers engaged under a contract of employment for specified period of time or specified work;
- (b) worker serving a period of probation or qualifying period of employment of reasonable duration determined in advance; and
- (c) workers engaged on a casual basis.

PART IX-PROTECTION OF REMUNERATION

Payment of remuneration

67. Subject to this Part, every contract of employment shall stipulate that the whole of the salary, wages and allowances of the worker shall be made

payable in legal tender in addition to any non-cash remuneration and accordingly, a contract of employment that contains provisions to the contrary is void.

Equal pay for equal work

68. Every worker shall receive equal pay for equal work without distinction of any kind.

Prohibited deductions

69. (1) An employer shall not make any deduction by way of discount, interest or any similar charge on account of an advance of remuneration made to a worker in anticipation of the regular period of payment of remuneration.

(2) An employer shall not

- (a) impose a pecuniary penalty upon a worker for any cause whatsoever; or
- (b) deduct from remuneration due to a worker, any amount whatsoever, unless the deduction is permitted by section 70 or by any other law or is by way of repayment of an advance of remuneration lawfully made by the employer to the worker.

Permitted deductions

70. (1) An employer may, with the consent of the worker, make any of the following deductions from the remuneration of the worker:

- (a) any amount due from the worker in respect of contributions to any provident, pension, or other fund or scheme agreed to by the worker;
- (b) any financial facility advanced by the employer to the worker at the written request of the worker or any facility guaranteed by the employer to the worker;
- (c) any amount paid to the worker in error, as remuneration, in excess of what the worker is legitimately entitled to, from the employer;
- (d) on the written authority of the worker, any amount due from the worker as membership fee or contribution to an organisation of which the worker is a member;
- (e) for meeting any loss suffered by the employer as a result of the loss of, or damage to, any property or thing used in connection with, or produced by, the employer's business and which is under the control of the worker;
- (j) any deduction in compliance with an order made by the Commission.

(2) No deduction shall be made under subsection (1) (1) unless the employer is satisfied,

- (a) that the loss or damage has been caused by the worker and the worker is clearly shown to be responsible;
- (b) that the amount to be deducted is fair and does not exceed the actual value of the loss or damage suffered by the employer or that the amount represents a fair estimate of the loss or damage suffered;
- (c) that the worker has been given reasonable opportunity to show cause why the deductions should not be made; and
- (d) that the rate of the deductions is such as to avoid hardship to the worker and his or her dependants.

(3) Where a worker who is aggrieved by any deduction made by his or her employer under subsection (1), is unable to resolve the matter with the employer, the worker may present a complaint in writing to the Commission.

(4) The Commission shall investigate the complaint and its decision on the matter shall subject to any other law be final.

Employer not to compel workers to use its store

71. Where an employer establishes a store for the sale of commodities to the workers or operates a service for them, the employer shall not coerce the workers to make use of the store or service.

Paid public holidays

72. Every worker is entitled to be paid his or her remuneration for public holidays.

PART X-SPECIAL PROVISIONS RELATING TO TEMPORARY WORKERS AND CASUAL WORKERS

Right to employ and application of this Part

73. (1) Subject to this Act, an employer may hire a worker on terms that suit the operations of the enterprise.

(2) Notwithstanding subsection (1), this Part does not apply to,

- (a) piece workers
- (b) part-time workers;
- (c) sharecroppers;
- (d) apprentices;

- (e) sea-going personnel in the fishing industry who are wage earners; and
- (f) any person who works less than an average of twenty-four hours a week

Casual worker

74. (1) A contract of employment of a casual worker need not be in writing.

(2) A casual worker shall

- (a) be given equal pay for work of equal value for each day worked in that organization;
- (b) have access to any necessary medical facility made available to the workers generally by the employer;
- (c) be entitled to be paid for overtime work by his or her employer in accordance with section 35; and
- (d) be paid full minimum remuneration for each day on which the worker attends work, whether or not the weather prevents the worker from carrying on his or her normal work and whether it is possible or not, to arrange alternative work for the worker on such a day.

Temporary worker

75. (1) A temporary worker who is employed by the same employer for a continuous period of six months and more shall be treated under this Part as a permanent worker.

(2) Without prejudice to the terms and conditions of employment mutually agreed to by the parties, the provisions of this Act in respect of minimum wage, hours of work, rest period, paid public holidays, night work and sick leave are applicable to a contract of employment with a temporary worker.

Remuneration of temporary and casual workers

76. (1) Subject to this section, the minimum remuneration of a temporary worker or a casual worker shall be determined as follows:

- (a) where a temporary worker or a casual worker is required to work on week-days only, the minimum monthly remuneration is the amount represented by the worker's daily wage multiplied by twenty-seven;
- (b) where a temporary worker or a casual worker is required to work every day in the week, the minimum monthly remuneration is the amount represented by three hundred and sixty-five times his daily wage divided by twelve.

(2) A temporary worker or a casual worker referred to in subsection (1)(a) is not entitled to 1/27 of his or her minimum monthly remuneration as specified in that paragraph for each day the worker is absent from work during the month.

(3) A temporary worker or a casual worker referred to in subsection (1)(b) is not entitled to a twenty-eighth, twenty-ninth, thirtieth or thirty-first part of his or her minimum remuneration as specified in that paragraph for each day the worker is absent from work during the month, depending on whether the month consists of twenty-eight, twenty-nine, thirty or thirty-one days.

(4) An employer shall pay a temporary worker or a casual worker the full minimum remuneration for each day on which the worker attends work, whether or not wet weather prevents the worker from carrying on his or her normal work and whether it is possible or not, to arrange alternative work for the worker on such a day.

(5) A temporary worker or a casual worker is entitled to be paid for overtime work by his or her employer in accordance with section 35.

Payment of remuneration for public holidays

77. (1) Every employer shall pay each temporary or casual worker in respect of every public holiday the full remuneration which would have been payable to the temporary or casual worker for a full day's work if that day had not been a public holiday.

(2) Where a temporary or casual worker attends and performs work of a full day or more on a public holiday, the employer shall pay the worker in addition, the remuneration which would have been payable to the temporary or casual worker for the work if that day had not been a public holiday.

(3) Where a temporary or casual worker attends and performs work for part only of a public holiday, the employer shall pay the worker in addition to the remuneration provided under subsection (1), the proportion of the remuneration for a full day's work on that day if that day had not been a public holiday, represented by the number of hours for which the temporary or casual worker has performed work.

(4) Any payment required to be made under subsection (1), (2) or (3) in respect of a public holiday shall be made after the public holiday in the same manner as the worker is normally paid.

(5) When an employer fails to comply with subsection (1), (2), (3) or (4), the temporary worker or the casual worker aggrieved by the non-compliance

of the employer may present a written complaint to the Commission for determination and the parties shall abide by the decision of the Commission.

(6) The Commission may order the employer to pay, such sum as appears to the Commission to be due to the temporary worker or the casual

worker on account of any remuneration payable to him or her under this section, and may in that order specify the time within which the payment shall be made.

Interpretation

78. In this Part

"temporary worker" means a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for a work that is seasonal in character

"casual worker" means a worker engaged on a work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis.

PARTXI-TRADE UNIONS AND EMPLOYERS' ORGANISATIONS

Freedom of Association

79. (1) Every worker has the right to form or join a trade union of his or her choice for the promotion and protection of the worker's economic and social interests.

(2) Notwithstanding subsection (1), a worker whose function is normally considered as

- (a) policy making;
- (b) decision making;
- (c) managerial;
- (d) holding a position of trust;
- (e) performing duties that are of highly confidential nature; or
- (f) an agent of a shareholder of an undertaking, may not form or join trade unions.

(3) Subject to subsection (4), the classes of workers referred to in

(4) In determining whether a worker falls within the class of workers referred to in subsection (2), the parties shall consider the organisational structure and job descriptions or functions of the worker concerned.

Formation of trade union or employers' organisation

80. (1) Two or more workers employed in the same undertaking may form a trade union.

(2) Two or more employers in the same industry or trade, each of whom employs not less than fifteen workers may form or join an employers' organisation.

Organisational rights

81. Every trade union or employers' organisation has the right to

- (a) draw up its constitution and rules, elect its officers and representatives;
- (b) organise its administration and activities and formulate its own programmes;
- (c) take part in the formulation, and become a member of any federation of trade unions or employers' organisation and participate in its lawful activities; and
- (d) affiliate to and participate in the activities of, or join an international workers' or employers' organisations.

Independence of trade unions and employers organisations

82. A trade union or an employers' organisation shall not be subject to the control of or be financially or materially aided by a political party.

Application for registration

83. (1) A trade union or employers' organisation shall apply in writing to the Chief Labour Officer to be registered.

(2) An application for registration under subsection (1) shall be submitted with the constitution, rules, names of officers and office address of the trade union or employers' organisation.

(3) If, after considering the application, the Chief Labour Officer is satisfied that

- (a) there has been compliance with subsection (2);
- (b) the applicant is a trade union or employers' organisation duly established under any enactment for the time being in force as a body corporate;

- (c) the internal organisation of the trade union or employers' organisation conforms to democratic principles;
 - (d) the name of the trade union or employers' organisation does not closely resemble that of another registered trade union or employers' organisation, so as to mislead or confuse the public;
 - (e) the rules of the trade union or employers' organisation are in conformity with section 85; and
 - (f) the constitution or rules of the trade union or employers' organisation do not discriminate on the grounds stated in section 87 against any person,
- the Chief Labour Officer shall register the trade union or employers' organisation.

Certificate of registration

84. A trade union or an employers' organisation registered under section 81 shall be issued with a certificate of registration by the Chief Labour Officer.

Rules of trade unions and employers' organisations

- 85.** The rules of a trade union or an employers' organisation shall include provisions in respect of the following matters:
- (a) the name of the trade union or organisation;
 - (b) the registered office to which correspondence and notices may be addressed;
 - (c) the principal objects of the trade union or employers' organisation;
 - (d) the qualifications for membership;
 - (e) the grounds on which an officer or a member may be suspended or dismissed from office or membership;
 - (f) the procedure for suspension or dismissal of an officer or a member;
 - (g) the membership fees and other subscriptions payable;
 - (h) the manner of dissolution of the trade union or employers' organisation and disposal of its assets;
 - (i) the manner of altering, amending or revoking its constitution or rules; and
 - (j) the powers, function;') and duties of officers of the trade union or employers' organisation.

Register of trade unions and employers' organisations

86. The Chief Labour Officer shall keep and maintain a register of trade unions and employers' organisations, in which shall be entered the prescribed particulars relating to them and any alterations or changes affecting them.

Protection against discrimination

87. (1) A trade union or employers' organisation shall not discriminate in its constitution or rules against any person on grounds of race, place of origin, political opinion, colour, religion, creed, gender or disability.

(2) The Chief Labour Officer shall not register a trade union or employers' organisation which contravenes subsection (1), unless the trade union or employers' organisation takes steps to rectify the defect in its constitution or rules within a period specified by the Chief Labour Officer.

Effect of registration

88. The rights and powers conferred on trade unions or employers' organisations under this Act shall be exercised only if the trade unions or employers' organisations are registered in accordance with this Part.

Change of name

89. (1) A trade union or an employers' organisation may change its name in accordance with the requirements of its constitution or rules.

(2) A change of name shall not affect any rights or obligations of the trade union or employers' organisation or its member otherwise the change will not be valid.

Amalgamation

90. Any two or more trade unions or employers' organisations may in accordance with the requirements of their constitutions or rules, amalgamate to form one trade union or employers' organisation.

Registration of change of name and amalgamation

91. (1) A written notice concerning a change of name or amalgamation duly signed by officers of the trade union or employers' organisation or the amalgamated trade union or employers' organisation shall be registered with the Chief Labour Officer within fourteen days after the change of name or amalgamation.

(2) The Chief Labour Officer shall direct the officer of a trade union or employers' organisation which fails to comply with subsection (1) to do so within a period specified by the Chief Labour Officer, and the officer shall comply with the direction failing which the change shall not be valid.

Alteration of rules

92. (1) Any alteration of the rules of a trade union or an employers' organisation shall be registered with the Chief Labour Officer by the trade union or the employers' organisation.

(2) The Chief Labour Officer shall direct the officer of the trade union or employers' organisation which fails to comply with subsection (1) to do so within a period specified by the Chief Labour Officer, and the officer shall comply with the direction.

Federation

93. A federation of trade unions or a federation of employers' organisation shall be subject to all the provisions of this Act applicable to trade unions or employers' organisations.

Accounts and audit

94. (1) A trade union or an employers' organisation registered under this Act shall

- (a) keep books and records of accounts of its income, expenditure, assets and liabilities; and
- (b) prepare annual financial statements consisting of all income and expenditure statements in respect of each financial year of the trade union or employers' organisation and a balance sheet showing its assets, liabilities and financial position at the end of that financial year.

(2) The books and records of accounts and financial statements shall be audited within six months after the end of its financial year by an auditor appointed by the trade union or employers' organisation.

Audited financial statements

95. A trade union or an employers' organisation shall, within seven months after the end of its financial year, submit to the Chief Labour Officer a copy of its audited financial statement.

PART XII-COLLECTIVE AGREEMENT**Collective agreement**

96. Subject to the provisions of this Act, a collective agreement relating to the terms and conditions of employment of workers, may be concluded between one or more trade unions on one hand and representatives of one or more employers or employers' organisations on the other hand.

Duty to negotiate in good faith

97. (1) All parties to the negotiation of a collective agreement shall negotiate in good faith and make every reasonable effort to reach an agreement.

(2) For the purpose of subsection (1), either party to the negotiation shall make available to the other party information relevant to the subject matter of the negotiation.

(3) When any information disclosed for the purpose of the negotiation of a collective agreement is not made public, the information shall be treated as confidential by the party receiving the information and shall not be disclosed to a third party without the prior written consent of the party providing the information.

(4) The parties to the negotiation of a collective agreement shall not make false or fraudulent misrepresentations as regards matters relevant to the negotiations.

Contents of collective agreement

98. Without prejudice to the other provisions of this Act and subject to any agreement between the parties, a collective agreement may include provisions on the following matters:

- (a) the class or category of workers to which it relates;
- (b) the conditions of work, including the hours of work, rest period, meal breaks, annual leave, occupational health and safety measures;
- (c) the remuneration and the method of calculating the remuneration of the workers;
- (d) the period of probation and conditions of probation;
- (e) the period of notice of termination of employment, transfer and discipline;
- (j) the procedures for the avoidance and settlement of disputes arising out of the interpretation, application and administration of the agreement;
- (g) the principles for matching remuneration with productivity; and
- (h) the essential services within the establishment.

Collective bargaining certificate

99. (1) A trade union shall make an application to the Chief Labour Officer for a certificate appointing that trade union as the appropriate representative to conduct negotiations on behalf of the class of workers specified in the collective bargaining certificate with the employers of the workers.

- (2) An application made under subsection (1) shall include
- (a) the description of the class of workers in respect of whom the application is made and their estimated number; and
 - (b) the number of workers of that class who are members of the trade union by whom the application is made.
- (3) The class of workers may be specified in a certificate issued under this section by reference to the employer of the workers or to the occupation of the workers or in any other manner sufficient to identify them.
- (4) The Chief Labour Officer shall subject to regulations made by the Minister, determine which union shall hold a collective bargaining certificate for the class of workers in a situation where there is more than one trade union at the work place.
- (5) A collective bargaining certificate will be issued to a union for the same class of workers at a particular time.
- (6) A certificate issued under this section shall have effect notwithstanding that some of the workers of the class specified are not members of the trade union appointed under the certificate.
- (7) A certificate issued under this section shall be published in the *Gazette* by the Chief Labour Officer.
- (8) At any time after the issue of a certificate under this section, the Chief Labour Officer may
- (a) at the request of either the trade union or employer's organisation;
 - and
 - (b) after consultation with the trade union or employers' organization, withdraw the certificate without affecting the right of the trade union to apply for a fresh certificate under this section.
- (9) A trade union which is dissatisfied or aggrieved with a decision of the Chief Labour Officer under Parts XI or XII of this Act may apply to the National Labour Commission for redress.

Variation of certificate

- 100.** (1) At any time after the issue of a certificate under section 99 the Chief Labour Officer may, after consultation with the trade union named in the certificate and the appropriate employers' organisation, issue an amending certificate varying the class of workers specified in the certificate and any reference in this Act to a certificate issued under section 99 shall be deemed to include such a certificate as amended under this section.

(2) The issuance of an amending certificate shall not affect the membership of a standing negotiating committee or a joint standing negotiating committee appointed under section 101, but the employer or workers of the class specified in the certificate as varied by the amending certificate, may nominate representatives to act either in the place of or together with their existing representatives.

(3) When an amending certificate is issued, the Chief Labour Officer shall cause a copy of the amending certificate to be published in the *Gazette*.

(4) When an amending certificate is issued extending the class of workers specified in the original certificate, and there is in force a collective agreement which applies to all workers of the class specified in the original certificate, the trade union named in the certificate shall take such steps as appear to it to be appropriate for bringing that agreement to the attention of all the workers to whom the agreement is extended by the amending certificate.

(5) When an amending certificate is issued excluding any persons from the class of workers specified in the original certificate, and there is in force a collective agreement which applied to those persons, the amending certificate shall not affect that application of the agreement to them, or any right to vary it, but a collective agreement made after the issue of the amending certificate by another trade union shall have effect notwithstanding anything in the previous agreement.

Negotiating committees

101. (1) The trade union appointed in a certificate issued under section 99 and the employer of the workers of the class to which the certificate relates shall each nominate their representatives authorised to conduct negotiations on their behalf, and the representatives shall constitute a standing negotiating committee to negotiate on matters referred to it.

(2) A standing negotiating committee referred to in subsection (1) shall make rules governing its procedure.

(3) A standing negotiating committee or joint standing negotiating committee set up under this section shall have the power to appoint subcommittees to which it may delegate any of its functions under this Act.

Negotiations by negotiating committee or joint negotiating committee

102. (1) Negotiations on all matters connected with the employment or non-employment or with the terms of employment or with the conditions of employment of any of the workers of the class specified in a certificate issued under section 99, shall be conducted through the standing negotiating committee or the joint standing negotiating committee as the case may be.

(2) Either party represented on the committee may give notice to the other party requiring them to enter into negotiations on any matters which may properly be dealt with by the committee.

(3) An agreement concluded between the parties shall be in writing and signed by a duly authorised member of the committee representing each party and two copies of the agreement shall be deposited with the Commission and the Chief Labour Officer.

Negotiations may be conducted by a union officer or member

103. (1) Without prejudice to section 101, an officer or a member of a trade union who is duly appointed by his or her trade union, may conduct negotiations on any matter connected with the employment or non-employment or terms of employment or conditions of employment of any worker who belongs to the class of workers specified in the certificate.

(2) A person conducting negotiations under this section may give notice to the parties requiring them to enter into negotiations on any matters which may be properly dealt with by the person and it shall be the duty of both parties to make every reasonable effort to come to an agreement on the matters to which the notice relates.

(3) An agreement concluded between the parties shall be in writing and signed by the person conducting the negotiations.

(4) Rules made under subsection (2) of section 101 may be applicable to negotiations conducted under this section and to other matters relating to such negotiations,

Failure to negotiate

104. If the party on whom a notice is served under subsection (2) of section 102 or subsection (2) of section 103, does not within fourteen days after service of the notice take any steps to enter into negotiations, the Commission shall direct the party to enter into negotiations immediately, and the party shall

comply with the directive.

Effect of collective agreement

105. (1) An agreement concluded by a trade union through a standing negotiating committee or a joint standing negotiating committee shall, so far as the terms of the agreement permit, apply to all workers of the class specified in the certificate.

(2) The provisions of a collective agreement concerning the terms of employment and termination of employment, and personal obligations imposed on, and rights granted to, a worker or employer shall be regarded as terms of a contract of employment between each worker to whom the provisions apply and his or her employer.

(3) Any provisions that have effect as terms of a contract of employment

under subsection (2), shall continue to have effect after the expiration of the collective agreement, so long as they have not been varied by agreement of the parties or in pursuance of this Act.

(4) The rights conferred on a worker by a collective agreement shall not be waived by the worker and, if there is any conflict between the terms of a collective agreement and the terms of any contract not contained in the collective agreement, the collective agreement shall prevail unless the terms of the contract are more favourable to the worker; and it is immaterial whether or not the contract was concluded before the collective agreement.

(5) The withdrawal of a certificate appointing a trade union under subsection (8) of section 99 shall not affect the validity of a collective agreement made by the trade union before the certificate was withdrawn, but any collective agreement which is made by another trade union after the withdrawal of the certificate shall have effect notwithstanding anything in the previous agreement.

Notice of collective agreement to workers

106. The parties to the negotiations shall bring the terms of the concluded collective agreement to the notice of all the workers concerned.

Duration of collective agreements

107. (1) Every collective agreement concluded under section 103 shall be for a term of at least one year. (2) A party to a collective agreement shall not give notice under section 102 requiring the other party to negotiate with respect to any matter governed by a collective agreement unless, at the time when the notice is served, that agreement is due, either as a result of the notice given under this section or otherwise, to expire within twenty-eight days after the service of the notice.

(3) Where no notice is given under subsection (2) by either party within thirty days after the expiration of the collective agreement, the collective agreement shall be deemed to have continued in force until rescinded by the parties.

Provision for dispute settlement

108. Every collective agreement shall contain a provision for final and conclusive settlement under Part XVIII of this Act of all differences between the persons to whom the agreement applies.

Power to extend collective agreements

109. (1) Where it appears to the Chief Labour Officer that

- (a) all or any of the terms of a collective agreement are suitable for application to a class of workers who are engaged in the same kind of work, or who work in the same area, as the workers to whom the collective agreement applies; and
- (b) that the parties who concluded the agreement were sufficiently representative of the workers to whom the agreement is to apply and their employers,

the Chief Labour Officer may direct that those terms of the collective agreement shall apply in relation to that class of workers and their employers as they apply in relation to workers of the class specified in the certificate and their employers.

(2) The Chief Labour Officer shall not issue any directive under subsection (1) unless, three months before issuing the directive, the Chief Labour Officer has, after consultation with the appropriate employers' organisations and the trade unions concerned, published in the *Gazette*, a notice

- (a) describing the class of workers to whom it is proposed to apply the agreement, setting out the text of the collective agreement; and
- (b) giving particulars of the manner in which and time within which objections to the proposal may be submitted to the Chief Labour Officer.

(3) The Chief Labour Officer shall take appropriate steps to bring the contents of the notice to the attention of employers and workers affected by the proposals.

(4) The Chief Labour Officer shall not issue any directive under subsection (1) applying the terms of an agreement to workers who were not in the class described in the notice given under subsection (2).

(5) Where a collective agreement, the terms of which are applied by any directive issued under subsection (1) ceases to have effect, the directive shall cease to have effect on the same date.

Effect of extension of collective agreements

110 (1) Any directive issued under section 109 that extends the provisions of a collective agreement on terms of employment and termination of employment, and personal obligations imposed on, and rights granted to, a worker, shall be regarded as terms of a contract of employment between each worker to whom those provisions apply and his or her employer.

(2) The terms of a contract of employment under subsection (1) shall continue to have effect after the directive ceases to have effect so long as those provisions have not been varied by agreement between the parties or in pursuance of this Act.

(3) The rights conferred on a worker by any directive issued under section 109 shall not be waived by the worker and, if there is any conflict between the term extended by the directive and the terms of any contract, the directive shall prevail, unless the terms of the contract are more favourable to the worker.

Union dues

111. (1) A trade union to which this section applies may issue to the employer of any workers who are members of that trade union, a notice in the form in Schedule II to this Act requesting the employer

- (a) to deduct from the wages of his or her workers covered by a certificate issued under section 99, the sums specified by the trade union; and
- (b) to pay over the sums deducted as may be directed by the trade union, and, subject to this section, the employer shall comply with the notice.

(2) A trade union to which this section applies may, on issuing a notice in the form in Schedule II to this Act or subsequently, issue a further notice requesting the employer, out of the amounts which the employer is to pay over to the trade union, to remit a proportion stated in the notice directly to a specified branch of the trade union.

(3) A sum deducted in accordance with a notice given under this section shall be in discharge of the liability of the respective member of the trade union to pay dues to that trade union.

(4) A sum which an employer has in accordance with a notice under this section deducted from the wages of a worker to the trade union shall be paid over not more than one month after the date on which the wages are paid, and the trade union may sue in its own name for any sum which ought to have been paid to the trade union.

PART-XIII NATIONAL TRIPARTITE COMMITTEE

Establishment of National Tripartite Committee

112. There is hereby established a National Tripartite Committee which shall be composed of

- (a) the Minister who shall be the chairperson;
- (b) five representatives of the Government;
- (c) five representatives of employers' organisations; and
- (d) five representatives of organised labour.

Functions of the National Tripartite Committee

113. (1) The National Tripartite Committee shall

- (a) determine the national daily minimum wage;
- (b) advise on employment and labour market issues, including labour laws, international labour standards, industrial relations and occupational safety and health;
- (c) consult with partners in the labour market on matters of social and economic importance; and
- (e) perform such other functions as the Minister may request for the promotion of employment development and peace in the labour sector.

(2) The Minister shall publish in the *Gazette* and in such public media as the Minister may determine, a notice of the national daily minimum wage determined under subsection (1).

(3) The Ministry shall provide the National Tripartite Committee with such secretarial services as the Committee may require for the effective performance of its functions.

Meetings of the National Tripartite Committee

114. (1) The National Tripartite Committee shall meet at times and at places determined by the members but shall meet at least once in every three months.

(2) The quorum for a meeting of the National Tripartite Committee shall be nine members with at least two members each representing the Government, organised labour and employers organisations.

(3) The National Tripartite Committee may invite any interest group to attend any of its meetings.

(4) Except as otherwise provided in this section, the National Tripartite Committee shall regulate its proceedings.

Regional and District Tripartite Committees

115. (1) The National Tripartite Committee may set up sub-committees of the Committee in such Regions and Districts as it considers necessary for the effective performance of its functions.

(2) The composition of a Regional or District sub-committee of the National Tripartite Committee shall be determined by the Committee except that there shall be equal representation of Government, organized labour and employers' organizations.

(3) The Ministry shall provide a sub-committee with such secretarial services as the sub-committee may require.

PART XIV-FORCED LABOUR**Prohibition of forced labour**

116. (1) A person shall not be required to perform forced labour.

(2) It is an offence for an employer to exact or cause to be exacted, or permit to be exacted, for his or her benefit forced labour from any worker.

(3) Any employer convicted of an offence under subsection (2) is liable to a fine not exceeding 250 penalty units.

Interpretation of "forced labour"

117. In this Part "forced labour" means work or service that is exacted from a person under threat of a penalty and for which that person has not offered himself or herself voluntarily, but does not include

- (a) labour required as a result of a sentence or order of a court;
- (b) labour required of a member of a disciplined force or service as his or her duties;
- (c) labour required during a period when the country is at war or in the event of an emergency or calamity that threatens life and well-being of the community, to the extent that the requirement of the labour is reasonably justifiable in circumstances of a situation arising or existing during that period for the purpose of dealing with the situation; or
- (d) labour reasonably required as part of normal communal or other civic obligations.

PART XV-OCCUPATIONAL HEALTH, SAFETY AND ENVIRONMENT

General health and safety conditions

118. (1) It is the duty of an employer to ensure that every worker employed by him or her works under satisfactory, safe and healthy conditions.

- (2) Without limiting the scope of subsection (1), an employer shall
- (a) provide and maintain at the workplace, plant and system of work that are safe and without risk to health;
 - (b) ensure the safety and absence of risks to health in connection with use, handling, storage and transport of articles and substances;
 - (c) provide the necessary information, instructions, training and supervision having regard to the age, literacy level and other circumstances of the worker to ensure, so far as is reasonably practicable, the health and safety at work of those other workers engaged on the particular work;
 - (d) take steps to prevent contamination of the workplaces by, and protect the workers from, toxic gases, noxious substances, vapours, dust, fumes, mists and other substances or materials likely to cause risk to safety or health;
 - (e) supply and maintain at no cost to the worker adequate safety appliances, suitable fire-fighting equipment, personal protective equipment, and instruct the workers in the use of the appliances or equipment;
 - (f) provide separate, sufficient and suitable toilet and washing facilities and adequate facilities for the storage, changing drying and cleansing from contamination of clothing for male and female workers;
 - (g) provide adequate supply of clean drinking water at the work place; and
 - (h) prevent accidents and injury to health arising out of, connected with, or occurring in the course of, work by minimizing the causes of hazards inherent in the working environment.
- (3) It is the obligation of every worker to use the safety appliances, fire-fighting equipment and personal protective equipment provided by the employer in compliance with the employer's instructions.
- (4) An employer shall not be liable for injury suffered by a worker who contravenes subsection (3) where the injury is caused solely by noncompliance by the worker.
- (5) An employer who, without reasonable excuse, fails to discharge any of the obligations under subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 3 years or to both.

Exposure to imminent hazards

119. (1) When a worker finds himself or herself in any situation at the workplace which she or he has reasonable cause to believe presents an imminent and serious danger to his or her life, safety or health, the worker shall immediately report this fact to his or her immediate supervisor and remove himself or herself from the situation.

(2) An employer shall not dismiss or terminate the employment of a worker or withhold any remuneration of a worker who has removed himself or herself from a work situation which the worker has reason to believe presents imminent and serious danger to his or her life, safety or health.

(3) An employer shall not require a worker to return to work in circumstances where there is a continuing imminent and serious danger to the life, safety or health of the worker.

Employer to report occupational accidents and diseases

120. An employer is required to report as soon as practicable and not later than seven days from the date of the occurrence to the appropriate government agency, occupational accidents and diseases which occur in the workplace.

Specific measures

121. The Minister may by legislative instrument make Regulations providing for specific measures to be taken by employers to safeguard the health and safety of workers employed by them.

PART XVI-LABOUR INSPECTION**Labour inspection**

122. There shall be carried out inspection to

- (a) secure the enforcement of the provisions of this Act relating to conditions of work and the protection of workers at their workplaces, including the provisions relating to hours of work, wages, safety, health and welfare of the workers and the employment of young persons;
- (b) provide technical information and advice to employers and workers concerning the most effective means of complying with the provisions of this Act;
- (c) bring to the notice of the Labour Department or the Commission any defects of this Act; and
 - (d) report to the Labour Department or the Commission other unfair labour practices or abuses not specifically provided for

Appointment of Inspectors

123. Inspectors shall be appointed by the appointing authority of the Civil Service for the purposes specified in this Act.

Powers of labour inspectors

124. (1) An inspector has power to

- (a) enter freely and without notice at any hour of the day or night to inspect any workplace during working hours;
- (b) enter during the day or night any premises which the inspector has reason to believe are subject to inspection;
- (c) carry out any examination, test or inquiry the inspector considers necessary in order to ensure that the provisions of this Act and Regulations made under this Act are complied with;
- (d) interview, either alone or in the presence of witnesses, any employer or worker on any matter concerning the application and compliance with the provisions of this Act and Regulations made under it;
- (e) require the production of any books, registers or other documents which relate to the terms and conditions of employment of the workers, in order to ascertain that these are in conformity with this Act and Regulations made under it and to copy the documents or make extracts from them;
- (j) enforce the posting of notices required by or under this Act; (g) take or remove for purposes of analysis samples of materials and hazardous or chemical substances used or handled by workers in the course of their employment; and
- (h) direct employers to carry out alterations to buildings, installations and plant necessary to avert any danger or threat of danger to the health or safety of the workers within such period as may be specified in the direction, but no such period shall be allowed if the inspector is of the opinion that there is an imminent danger to the health or safety of the workers.

(2) An employer who is directed under subsection (1) (h) to carry out any alterations may,

- (a) where the period within which the alterations are to be carried out is specified, appeal to the Minister against the direction within seven days before the expiration of the period; or
- (b) where no period is specified, appeal not later than seven days after the direction, against the direction, to the Minister.

(3) The decision of the Minister on the appeal shall subject to any other law be final, and the employer shall abide by the decision and any related consequential order made.

(4) Where an appeal is lodged under subsection (2) the Minister shall direct the employer to take such interim measures as the employer considers necessary to avert any danger or threat of danger to the health or safety of the workers pending the determination of the appeal.

(5) An employer directed under subsection (1)(h) to carry out any alterations who does not appeal to the Minister against the direction shall

- (a) in the case of imminent danger to health or safety of workers, carry out the alterations immediately; or
- (b) where the period for the carrying out of the alterations, is specified, carry out the alterations before the expiration of the period.

(6) An employer who fails to comply with a decision or order of the Minister or an inspector under subsection (2) or (4) commits an offence and is liable on summary conviction to a fine not exceeding 250 penalty units and in addition shall be liable to pay compensation to any person who proves that he or she has suffered any loss, damage or injury as a result of the non-compliance by the employer.

Inspectors to maintain confidentiality

125. (1) An inspector shall not

- (a) have direct or indirect interest in any undertaking he or she is required to inspect;
- (b) divulge during or after termination of his or her service, any manufacturing or commercial secrets or working processes or confidential information which may have come to his or her knowledge in the course of his or her duties;
- (c) disclose the source of any complaint by which the inspector is informed of any contravention of the provisions of this Act or Regulations made thereunder or intimate to the employer or the employers' representative that an inspection was carried out in consequence of such complaint.

.. (2) An inspector who contravenes subsection (1) commits an offence and liable on summary conviction to a fine not exceeding 500 penalty units or to Imprisonment for a term not exceeding 2 years or to both.

Obstruction of inspectors

126. Any person who willfully obstructs a labour inspector in the performance of his or her functions under this Act commits an offence, and is liable on summary conviction to a fine not exceeding 250 penalty units or to imprisonment not exceeding 12 months or to both.

PART XVII-UNFAIR LABOUR PRACTICES

Discrimination

127. (1) A person who discriminates against any person with respect to the employment or conditions of employment because that other person is a member or an officer of a trade union is guilty of unfair labour practice.

(2) A person who seeks by intimidation, dismissal, threat of dismissal, or by any kind of threat or by imposition of a penalty, or by giving or offering to give a wage increase or any other favourable alteration of terms of employment, or by any other means, seeks to induce a worker to refrain from becoming or continuing to be a member or officer of a trade union is guilty of unfair labour practice.

(3) A worker or group of workers who by any kind of threat seeks to intimidate the employer during negotiations of a collective agreement is guilty of unfair labour practice.

(4) Employers or employer's organisations who seek by any kind of threat to intimidate the worker during negotiations of a collective agreement are guilty of unfair labour practice.

Interference by employers in union affairs

128. An employer who takes part in the formation of a trade union or, with the intention of adversely influencing a trade union, makes any contribution, in money or money's worth, to that trade union, is guilty of unfair labour practice.

Employer to facilitate workers trade union business

129. (1) An employer shall, subject to notice of not less than twenty four hours, allow any officer of a trade union whose members include any of his or her workers, reasonable facilities and time to confer with the employer or workers on matters affecting the members of the trade union who are his or her workers and an employer who fails to give reasonable facilities and time is guilty of unfair labour practice.

(2) In this section "reasonable facilities" means such facilities as the employer and his or her workers may agree are reasonably required for the purposes stated in subsection (1).

Interference that causes financial loss

130. Subject to the other provisions of this Act, if a worker carries on any activity intended to cause serious interference with the business of his or her employer that may result in financial loss, the worker is guilty of unfair labour practice.

Union activities during working hours

131. (1) An officer of a trade union or any other person shall not during normal working hours attempt to persuade or induce a worker, not covered by

a collective agreement, to become a member or an officer of a trade union while the worker is on the premises of his or her employer, without the consent of the employer.

(2) An officer of a trade union or any other person shall not during normal working hours confer with an employee on trade union matters while the worker is on the premises of his or her employer without the consent of the employer.

Commission to make orders

133. (1) Where the Commission finds that a person has engaged in an unfair labour practice it may, if it considers fit, make an order forbidding the person to engage or continue to engage in such activities as it may specify in the order.

(2) Where the Commission finds that a person has engaged in an unfair labour practice under section 127 which involves the termination of employment of a worker, the alteration of his or her employment or of the conditions of his or her employment, the Commission may, if it considers fit, make an order requiring the worker's employer

(a) to take such steps as may be specified in the order to restore the position of the worker; and

(b) to pay to the worker a sum specified in the order as compensation for any loss of earnings attributed to the contravention.

(3) Where the Commission finds that a person has engaged in an unfair labour practice under section 128 by making a contribution to a trade union, the commission may, if it considers fit, order that the trade union refund the contribution.

(4) For the purposes of enforcing an order of the commission under this section, the order shall have effect as if were made by the High Court.

Appeals

134. A person aggrieved by an order, direction or decision made or given by the Commission under section 133 may, within fourteen days of the making or giving of the order, direction or decision, appeal to the Court of Appeal.

PART XVIII-NATIONAL LABOUR COMMISSION

Sub-Part I Establishment and function of the National Labour Commission

Establishment of Commission

135. There is established by this Act a National Labour Commission referred to in this Act as the "Commission".

Composition of the Commission

136. (1) The Commission shall consist of the following persons.

(a) a chairperson who shall be nominated by the employers organisation and organised labour except that where there is failure to nominate a chairperson within sixty days as provided, the employers' organisation in consultation with organised labour shall submit the matter to a mediator agreed on by them; and

(b) six representatives, two each nominated by the Government employers' organisation and organised labour.

(2) The chairperson and the other members of the Commission shall be appointed by the President acting in consultation with the Council of State.

Qualification of chairperson and other members of the Commission

137. A person is qualified to be appointed a member of the Commission if that person

(a) does not hold office in a political party; and

(b) has knowledge and expertise in labour relations and management except that in the case of the chairperson, the person shall also be knowledgeable in industrial law.

Functions and independence of the Commission

138. (1) The functions of the Commission are as follows:

- (a) to facilitate the settlement of industrial disputes;
- (b) to settle industrial disputes;
- (c) to investigate labour related complaints, in particular unfair labour practices and take such steps as it considers necessary to prevent labour disputes;
- (d) to maintain a data base of qualified persons to serve as mediators and arbitrators;
- (e) to promote effective labour co-operation between labour and management; and
- (f) to perform any other function conferred on it under this Act or any other enactment.

(2) In the exercise of its adjudicating and dispute settlement function, the Commission shall not be subject to the control or direction of any person or authority.

Powers of the Commission

139. (1) The Commission shall exercise the following powers:

(a) receive complaints from workers, trade unions, and employers, or employers' organisations

(i) on industrial disagreement; and

(ii) allegation of infringement of any requirements of this Act and Regulations made under this Act;

(b) require an employer to furnish information and statistics concerning the employment of its workers and the terms and conditions of their employment in a form and manner the commission considers necessary; and

(c) require a trade union or any workers' organisation to provide such information as the Commission considers necessary;

(d) notify employers and employers' organisations or workers and trade unions in cases of contravention of this Act and Regulations made under this Act and direct them to rectify any default or irregularities.

(2) Without prejudice to subsection (1), the Commission shall in settling an industrial dispute, have the powers of the High Court in respect of

(a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise.