REPUBLIC OF LIBERIA



AN ACT TO REPEAL TITLE 18 OF THE EXECUTIVE LAW, LABOUR PRACTICES LAW AND TO ESTABLISH IN LIEU THEREOF THE DECENT WORK ACT, 2015

Republic of Liberia



Decent Work Act, 2015

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It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature assembled:

PART I. INTRODUCTORY

§ 1.1 Object
§ 1.2 Purposes of this Act
§ 1.3 Interpretation
§ 1.4 Definitions
§ 1.5 Application
§ 1.6 Entry into Force

CHAPTER 1 – PRELIMINARY PROVISIONS

§ 1.1 Object

The object of this Chapter is to assist in identifying the effect, meaning and purposes of this Act.

§ 1.2 Purposes of this Act

The purposes of this Act are to:

a) Promote the attainment of decent work in Liberia, by establishing a regulatory environment which facilitates:

i) continuing and further creation of quality employment; ii) the ability of all to exercise their rights at work; iii) a measure of social protection; and iv) participation in institutions and processes of social dialogue.

b) Ensure respect for, and the protection and fulfillment of fundamental rights at work in Liberia, including fundamental rights that are protected by the Constitution of Liberia.

c) Give effect to obligations incurred by Liberia as a member state of the International Labour Organization.

d) Establish transparent and accountable institutions and procedures of labour market governance.

e) Contribute to the enhancement of the human capabilities of all who work in Liberia.

f) Promote economic development and growth that can be shared throughout Liberia by:

i) reducing obstacles to efficient competition by business; and

ii) extending the application of this Act, to the greatest extent possible, to all work in Liberia.

§ 1.3 Interpretation

a) In the event of ambiguity, doubt or uncertainty about the meaning of a provision or a part of a provision of this Act, preference should be given to

i) the meaning which would best promote the objects and purposes of the Act; and

ii) the meaning which would best promote the fundamental rights in Chapter Two of this Act.

b) In the interpretation of this Act, for the purposes of section 18 of the General Construction law, technical words and phrases having a special or accepted meaning shall be construed by reference, amongst other things, to their meaning under international treaties to which Liberia is a party, including the findings or reports of any bodies with responsibility for overseeing the application or the interpretation of such law or treaties.

§ 1.4 Definitions

In this Act, unless the context indicates otherwise:

a) AIDS means Acquired Immune Deficiency Syndrome, a human disease which is caused by the HIV and which is characterized by the progressive destruction of the body's immune system;

b) casual employee means a person who is engaged as such on an hourly basis, other than as a full-time, part-time or fixed-term employee;

c) child means a person under the age of 18;

d) Civil Service Agency means the Civil Service Agency created by Chapter 66 of the Executive Law;

e) code of good practice means a code issued by the Ministry to provide guidance on how to comply with obligations in this Act;

f) collective agreement means a written agreement concerning the terms and conditions of employment or any other matter of mutual interest, concluded by:

(a) one or more registered trade unions, on the one hand, and;

(b) on the other hand:

(i) one or more employers;

(ii) one or more registered employers' organizations; or

(iii) one or more employers and one or more registered employers' organizations;

g) conciliator means an individual appointed as such under section § 40.2;

h) continuous service means the period during which an employee is or was bound by an employment contract with an employer, regardless of absence from work for an aggregate of thirty days or fewer in twelve months by reason of annual leave, physical inability to work established by a medical certificate issued by a medical professional, military training required by law, or any other cause not attributable to the fault of the employee;

i) disability means persistent physical or mental limitation that restricts that person's preparation for, entry into or participation or advancement in, employment or an occupation;

j) discriminate has the meaning set out in section § 2.7;

k) dispute of interest means any dispute concerning a proposal for new or changed conditions of employment, but does not include a dispute that this Act requires to be resolved by submission of a complaint of violation;

l) employee has the meaning set out in section § 1.5;

m) employer has a meaning affected by the definition of employee;

n) employment practice has the meaning identified in section § 2.9;

o) forced or compulsory labour means all work or service which is exacted from any person under the menace of any penalty, and for which that person did not offer himself voluntarily;

p) foreign worker means a person working in the Republic of Liberia who is not a citizen of the Republic;

q) full time employment means:

(i) for an employee who is engaged for five days' work in a week, not less than 40 hours' work in each week; and

(ii) for an employee who is engaged for six days' work in a week, not less than 48 hours' work in each week;

r) HIV means Human Immunodeficiency Virus, a virus that weakens the body's immune system, ultimately causing AIDS;

s) improvement notice means a notice issued by a labour inspector pursuant to section § 28.1;

t) irrelevant criminal record includes a conviction for an offence for which a pardon has been granted;

u) labour inspector means a person appointed to that office under Chapter Eight of this Act;

v) light work has the meaning specified in section § 21.3;

w) lockout means a total or partial refusal by one or more employers to allow their employees to work, if the refusal is to compel those employees or employees of any other employer to accept, modify or abandon any demand that may form the subject matter of a dispute of interest;

x) medical professional means a physician and any other registered or licensed professional authorized by the Ministry of Health and Social Welfare to issue a medical certificate;

y) Minimum Wage Board means the Minimum Wage Board established under Chapter Five of this Act;

z) minimum wage order means a recommendation of the Minimum Wage Board, once published in the Official Gazette of the Republic of Liberia in accordance with section § 5.3;

aa) Minister means the Minister appointed by the President in accordance with Chapter 34 of the Executive Law who is charged with responsibility for the administration, promotion, development, direction and supervision of all Government programs and activities relating to labour;

bb) Ministry means the Ministry of Labour as constituted by Chapter 34 of the Executive Law;

cc) National HIV and AIDS Workplace Policy means the National HIV and AIDS Workplace Policy developed by the Ministry of Labour in collaboration with the National Tripartite Committee and the National AIDS Commission, dated September 2008, as amended , revised or replaced from time to time;

dd) number of working days of an employee is the number of days which the employee averages in a week over the year of work which entitles the employee to leave in accordance with Chapter Five;

ee) organization of employers includes a registered employers' organization and a federation or confederation of employers' organizations;

ff) organization of workers includes a registered trade union and a federation or confederation of trade unions;

gg) part-time employment means employment to perform the same work as a full- time employee, but for fewer hours of work, on a reasonably predictable basis;

hh) person includes any natural or legal person, including any incorporated entity, whether incorporated in Liberia or otherwise;

ii) premises has a meaning set out in section § 24.2;

jj) prohibition notice means a notice issued by a labour inspector pursuant to section § 28.2, and includes a verbal prohibition notice issued in accordance with that section;

kk) remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by a person to a worker and arising out of the worker's engagement to work for that person;

ll) registered employers' organization means an organization of employers that is registered in accordance with section § 36.1;

mm) registered trade union means an organization of workers that is registered in accordance with section § 36.1;

nn) sexual harassment has the meaning given in section § 2.8;

oo) strike means a total or partial stoppage, disruption or retardation of work by employees if the stoppage, disruption or retardation is to compel their employer, any other employer or an employers' organization to which the employer belongs, to accept, modify or abandon any demand that may form the subject matter of a dispute of interest;

pp) trade union means an association of workers whose purpose is to promote and protect the economic and social interests of its members, including by seeking to regulate relations between workers and those who engage them;

qq) worker means any person who performs work, whether regularly or temporarily, and includes an employee, a person seeking employment, and a former employee;

rr) workplace means a place, whether or not in a building or structure, where employees or self-employed persons work;

ss) workplace union representative means a person elected to that position in accordance with section § 37.4.

§ 1.5 Application

a) This Act applies to all work performed within the jurisdiction of the Republic.

b) Without limiting the scope of the preceding provision, it is the intention of the legislature that this Act should apply, to the fullest extent possible:

i) to all work performed by both women and men;

ii) whether or not the person performing the work is a citizen of the Republic;

iii) to work performed in both the formal and the informal economy; and

iv) to work performed by children.

c) Notwithstanding the breadth of the preceding provisions:

i) except where expressly provided, this Act shall not apply to work falling within the scope of the Civil Service Agency Act as contained in Chapter 66 of the Executive Law or such other law as may be enacted in its place; and

ii) this Act shall not apply to officers, members of the crew, seamen, mariners, greasers, firemen, stevedores, launch drivers, stewards, cooks, laundrymen, and any other persons employed or in training on vessels registered under the provisions of Chapter 2 of the Maritime Law or their employers.

d) For the purposes of this Act, a person who works for, or renders services to, any other person is presumed, until the contrary is proved, to be an employee, regardless of the form of the contract, if any one or more of the following factors is present:

i) the manner in which the person works is subject to the control or direction of another person;

ii) the person's hours of work are subject to the control or direction of another person;

iii) in the case of a person who works for an organization, the person is a part of that organization;

iv) the person has worked for that other person for an average of at least 40 hours per month over the last three months;

v) the person is economically dependent on the other person for whom that person works or renders services;

vi) the person is provided with tools of trade or work equipment by the other person; or

vii) the person only works for or renders services to one person.

e) The Ministry, with the advice of the National Tripartite Council, may publish regulations and/or a code of good practice specifying how this Act will apply to particular categories of workers in respect of whom special and substantial problems of application arise.

PART II. FUNDAMENTAL RIGHTS AT WORK

CHAPTER 2 – FUNDAMENTAL RIGHTS

§ 2.1 Object
§ 2.2 Freedom from forced or compulsory labour
§ 2.3 Freedom from the worst forms of child labour
§ 2.4 Equal protection
§ 2.5 Right to equal remuneration
§ 2.6 Rights to form organizations and to bargain collectively
§ 2.7 Prohibition of discrimination
§ 2.8 Prohibition of sexual harassment
§ 2.9 Definition of employment practices

§ 2.10 Equal protection for persons living with HIV
§ 2.11 Protection of workers' freedom of association
§ 2.12 Protection of employers' freedom of association
§ 2.13 Proceedings alleging contravention of fundamental rights
§ 2.14 Onus of proof
§ 2.15 Use of certain documents in legal proceedings
§ 2.16 Remedies for contravention of fundamental rights

§ 2.1 Object

The object of this Chapter is to establish a legal framework to ensure respect for, and the protection and fulfillment of fundamental rights at work in Liberia.

§ 2.2 Freedom from forced or compulsory labour

a) No person in Liberia shall be subjected to forced or compulsory labour, provided however that this does not prohibit work or service:

i) exacted in consequence of compulsory military service laws of general application, provided that the work or service in question is of a purely military character;

ii) which forms part of the normal civic obligations of a citizen;

iii) exacted as a consequence of a conviction in a court of law, provided that:

(a) it is carried out under the supervision and control of a public authority; and
(b) no person is hired to or placed at the disposal of private individuals, companies or associations;

iv) exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; or

v) which is in the nature of minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

b) A person shall not directly or indirectly cause, permit or require any person to perform forced labour.

§ 2.3 Freedom from the worst forms of child labour

a) Except as elsewhere provided in this Act, no person shall employ or cause a child to be employed.

b) Without limiting the scope of the preceding provision, the following forms of work by children are absolutely prohibited:

i) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

ii) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

iii) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and

iv) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or welfare of children.

c) The Minister may make regulations which identify work prohibited under paragraph b) iv), and other forms of work for children that shall be absolutely prohibited.

d) A person shall not directly or indirectly cause, permit or require a child to participate in a form of work which is absolutely prohibited by or pursuant to this section.

§ 2.4 Equal Protection

a) All women and men are entitled, without distinction, exclusion or preference to enjoy and to exercise the rights and protections provided in this Act.

b) Without limiting the scope of the preceding provision, all persons who work or who seek to work in Liberia are entitled to enjoy and to exercise the rights and protections conferred by this Act irrespective of:

i) race, tribe, indigenous group, language, colour, descent, national, social or ethnic extraction or origin, economic status, community or occupation; ii) immigrant or temporary resident status; iii) sex, gender identity or sexual orientation; iv) marital status or family responsibilities;
v) Previous, current or future pregnancy or breastfeeding; vi) age;
vii) Creed, religion or religious belief;
viii) Political affiliation or opinion, or ideological conviction; ix) physical or mental disability;
x) health status including HIV or AIDS status, whether actual or perceived; xi) irrelevant criminal record, acquittal of a crime or dismissal of a criminal prosecution against them; or xii)personal association with someone possessing or perceived to possess one or more of these attributes.

§ 2.5 Right to Equal Remuneration

a) All women and men are entitled, without distinction, exclusion or preference, to receive equal remuneration for work of equal or comparable value.

b) Equal remuneration refers to rates of remuneration established without discrimination based on sex.

§ 2.6 Rights to Form Organizations and to Bargain Collectively

a) All employers and workers in Liberia, without distinction whatsoever, may establish and join organizations of their own choosing, without prior authorization, and subject only to the rules of the organization concerned.

b) Subject to this Act:

i) an organization of employers or workers may draw up its own constitutions and rules, elect its representatives in full freedom, and formulate its own programme of lawful activities; and

ii) employers and workers and their organizations **may:**
(1) bargain collectively; and
(2) engage in strike or lockout action in accordance with Chapter Forty One.

§ 2.7 Prohibition of Discrimination

a) No person shall discriminate against a person who works or who seeks to work in Liberia in an employment practice.

b) No person shall discriminate against another in an employment practice because the person has exercised or attempted to exercise any of their rights in this Act.

c) Discriminate means to apply any distinction, exclusion or preference which has the effect, whether directly or indirectly, of nullifying or impairing equality of opportunity or treatment, including the provision of remuneration or other benefits:

i) on a ground identified in section § 2.4; or

ii) because a person has exercised or sought to exercise, or is entitled to the enjoyment of any right conferred by this Act.

d) It is not unlawful by virtue of this section:

i) to distinguish, exclude or prefer any individual:

(1) on the basis of an inherent requirement of a particular job; or
(2) in the course of implementing affirmative action measures consistent with the purposes of this Act;

ii) in the case of an employee who is pregnant, temporarily to reassign her to different duties or functions that are suitable to her pregnant condition, provided that the reassignment does not lead to reduction in remuneration or any other benefits in respect of her employment.

e) Affirmative action measures means measures to redress the disadvantages in employment experienced by persons, or groups, or categories of persons, in order to

ensure their equitable representation in all occupational categories and levels in the workforce.

§ 2.8 Prohibition of sexual harassment

a) A person shall not directly or indirectly sexually harass a worker:
   i) in any employment practice; or
   ii) in the course of a person's employment.

b) Sexual harassment means:
   i) sexual conduct which is unwelcome, unreasonable, or offensive to the recipient, and which occurs in circumstances where a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or
   ii) sexual conduct that creates an intimidating, hostile or humiliating working environment for the person that is subject to that conduct.

c) Sexual conduct means:
   i) conduct of a sexual nature, whether physical, verbal or non-verbal; or ii) conduct based on sex affecting the dignity of women or men.

§ 2.9 Definition of employment practices

In this Chapter, employment practices include:

a) Access to vocational guidance, training and placement services; and

b) Access to employment and to a particular occupation or job, including:

   i) advertising;

   ii) recruitment procedures;

   iii) selection procedures;

   iv) appointments and the appointment process;

   v) promotion, demotion, and transfer;

   vi) remuneration and other terms and conditions of employment;

   vii) access to and the provision of remuneration, benefits, facilities and services;

   viii) security of tenure; or

ix) discipline, suspension or termination of employment.

§ 2.10 Equal protection for persons living with HIV

a) Without limiting the generality of sections § 2.4 or § 2.9, workers and potential employees shall not be:

i) excluded from work or employment on the ground of their HIV status, whether known or unknown; or

ii) compelled or required, either before or during their work or employment, to:

(1) submit to HIV testing at the workplace; or
(2) disclose their own HIV status, or the HIV status of any other person.

§ 2.11 Protection of workers' freedom of association

a) No person may do, or threaten to do, any of the following:

i) require a worker:

(1) not to be or not to become a member of an organization of workers; or
(2) to give up membership of an organization of workers.

ii) prevent a worker from exercising any right conferred by this Act or from participating in any proceedings under this Act; or

iii) prejudice or threaten to prejudice a worker because of past, present or anticipated

(1) membership of an organization of workers;
(2) participation in the formation of an organization of workers;
(3) participation in the lawful activities of an organization of workers;
(4) failure or refusal to do something that an employer may not lawfully permit or require a worker to do;
(5) disclosure of information that the worker is lawfully entitled or required to give to another person;
(6) exercise of any right conferred by this Act; or
(7) participation in any proceedings under this Act.

b) No person may advantage, or promise to advantage, a worker in exchange for that person not exercising any right conferred by this Act or for not participating in any proceedings under this Act.

c) A provision in any contract, whether entered into before or after the commencement of this Act, that directly or indirectly contradicts or limits any provision of section § 2.6, or this section, is invalid, unless the contractual provision is permitted by this Act.

d) This section operates in addition to, and to the fullest extent possible together with section § 2.7, provided that in a proceeding alleging breach of more than one provision of this Chapter, a party is only entitled to a single remedy.

§ 2.12 Protection of employers' freedom of association

a) No person may discriminate against an employer for exercising any right conferred by this Act.

b) Without limiting the scope of the preceding provisions, no person may do, or threaten to do, any of the following:

i) require an employer

(1) not to be or not to become a member of an employers' organization; or
(2) to give up membership of an employers' organization;

ii) prevent an employer from exercising any right conferred by this Act or from participating in any proceedings under this Act; or

iii) prejudice or threaten to prejudice an employer because of past, present or anticipated

(1) membership of an employers' organization;
(2) participation in forming an employers' organization or a federation of employers' organizations;
(3) participation in the lawful activities of an employers' organization or a federation of employers' organizations;
(4) disclosure of information that the employer is lawfully entitled or required to give to another person;
(5) exercise of any right conferred by this Act; or
(6) participation in any proceedings under this Act.

iv) no person may advantage, or promise to advantage, an employer in exchange for that employer not exercising any right conferred by this Act or not participating in any proceedings under this Act. However, nothing in this section precludes the parties to a dispute from concluding an agreement to settle that dispute.

c) A provision in any contract, whether entered into before or after the commencement of this Act, that directly or indirectly contradicts or limits any provision of section § 2.6, or this section, is invalid, unless the contractual provision is permitted by this Act.

d) This section operates in addition to, and to the fullest extent possible together with section § 2.7, provided that in a proceeding alleging breach of more than one provision of this Chapter, a party is only entitled to a single remedy.

§ 2.13 Onus of proof

a) In a proceeding alleging discrimination in contravention of section § 2.7:

i) the person alleges discrimination shall prove the existence of a distinction, exclusion or preference; and

ii) the other person shall prove that it was not caused or motivated by a ground or grounds specified in section § 2.4.

b) In a proceeding alleging sexual harassment in contravention of section § 2.8:

i) the person that alleges sexual harassment shall prove that sexual conduct of the relevant kind took place; and

ii) the other person shall prove that the sexual conduct was not used in the way referred to in section § 2.8b)i), or did not have the effect referred to in section § 2.8b)ii), as the case may be.

§ 2.14 Use of certain documents in legal proceedings

a) In any proceeding under this Chapter, the following shall be admissible in evidence:

i) a code of good practice issued under this Act; and ii) the National HIV and AIDS Workplace Policy.

b) A code of good practice or the National HIV and AIDS Workplace Policy shall be admitted as evidence if:

i) it includes a provision that is relevant to the matter; and

ii) the person alleged to have contravened the requirements of this Chapter failed at a material time to observe that provision of the code of good practice or the National HIV and AIDS Workplace Policy.

c) For the purposes of section b) above, a person shall be deemed to have complied with the requirements of this Act if:

i) either:

(1) a code of good practice has been issued under this Act that makes a specific reference to a requirement contained in this Chapter; or

(2) the National HIV and AIDS Workplace Policy makes specific reference to a requirement contained in this Chapter; and

ii) the person alleged to have contravened the requirements of this Chapter had complied with the code of good practice or the National HIV and AIDS Workplace Policy.

§ 2.15 Remedies for contravention of fundamental rights

a) A person who is the victim of a violation of a right protected by this Chapter may lodge a complaint under section § 9.2.

b) A registered trade union or registered employers' organization, acting on behalf of a member of that trade union or registered employers' organization, may lodge a complaint under section § 9.2 alleging a violation of a right protected by this Chapter.

c) A labour inspector may use the provisions of sections § 8.4or § 9.1 to enforce compliance with the provisions of this Chapter.

d) Upon a finding by the Ministry or a court, as the case may be, that any requirement of this Chapter has been breached, the Ministry or court may order any of the remedies specified in section § 9.5.

PART III. INSTITUTIONS AND ADMINISTRATION

CHAPTER 3 – GENERAL

§ 3.1 Objects

The objects of this Part are to:

a) Establish transparent and accountable institutions of labour market governance;

b) Establish and facilitate processes of social dialogue; and

c) Provide for the effective application and enforcement of this Act.

CHAPTER 4 – THE NATIONAL TRIPARTITE COUNCIL

§ 4.1 Establishment of the National Tripartite Council

§ 4.2 Functions of the National Tripartite Council

§ 4.3 Procedure of the National Tripartite Council

§ 4.4 Administration of the National Tripartite Council

§ 4.5 Allowances and expenses

§4.1 Establishment of the National Tripartite Council

a) A National Tripartite Council is hereby established, consisting of the Minister, who shall be the chairperson, together with:

i) three representatives of government, appointed by the Minister;

ii) three persons nominated by the most representative organization or organizations of employers in the Republic;

iii) three persons nominated by the most representative organization or organizations of workers in the Republic.

b) At least one woman shall be appointed or nominated as the case may be under each of sections a) i), a) ii) and a) iii).

c) Except as provided in section § 4.3 d):

i) members of the National Tripartite Council shall serve for terms of three years, and may serve for a maximum of three terms, which may be consecutive; and

ii) on each anniversary of the establishment of the National Tripartite Council following this Act coming into force, one member shall be appointed or nominated as the case may be, representing each of the government, employers and workers.

d) The Minister may delegate the requirement to attend meetings of the National Tripartite Council, but shall attend in person at least two meetings each year.

§ 4.2 Functions of the National Tripartite Council

a) The National Tripartite Council shall advise the Minister on employment and labour market issues, including:

i) labour laws; ii) international labour standards, including matters arising out of reports to be made under Article 22 of the Constitution of the International Labour Organization; iii) collective bargaining; iv) industrial relations;
v) occupational safety and health; vi) collection and compilation of information and statistics relating to the administration of this Act;
vii) policies and guidelines on dispute prevention and resolution;

viii) the performance of dispute prevention and resolution by the Ministry; ix) policies and guidelines on the application and enforcement of this Act by labour inspectors and on any other activities of labour inspectors;

x) prevention and reduction of unemployment, including the development and implementation of national policy on employment; and

xi) regulations, codes of good practice and other instruments to be made under this Act, together with any revisions to the National HIV and AIDS Workplace Policy.

b) In carrying out its tasks under this section the National Tripartite Council may consult with interest groups representing participants or potential participants in the labour market on matters of economic and social importance;

c) The National Tripartite Council shall perform such other functions:

i) conferred upon it by this or any other Act; and

ii) that the Minister may require for the achievement of the purposes of this Act.

d) The National Tripartite Council shall submit an annual report to the Minister, who shall cause it to be published in the Annual Report of the Ministry of Labour.

§ 4.3 Procedure of the National Tripartite Council

a) The National Tripartite Council shall meet at times and at places determined by the members but shall meet at least once in every three months.

b) The quorum for a meeting of the National Tripartite Council shall be five members, provided that there is at least one member each representing the Government, employers and workers.

c) The National Tripartite Council may invite any interest group representing participants or potential participants in the labour market to attend any of its meetings.

d) Except as otherwise provided in this section, the National Tripartite Council shall regulate its own proceedings, and shall determine which of its initial members shall not serve full terms.

§ 4.4 Administration of the National Tripartite Council

The Minister shall provide reasonable support for the performance of the functions of the National Tripartite Council, and in particular:

a) Shall make staff members in the Ministry available to perform administrative and clerical work for the National Tripartite Council in the performance of its functions; and

b) May designate a staff member in the Ministry to serve as a secretary to the National Tripartite Council.

§ 4.5 Allowances and expenses

The members of the Council shall be paid allowances and reimbursed reasonable expenses, as prescribed by the Minister.

CHAPTER 5 – THE MINIMUM WAGE BOARD

§ 5.1 Establishment and composition of the Minimum Wage Board
§ 5.2 Functions and responsibilities of the Minimum Wage Board
§ 5.3 Procedure of the Minimum Wage Board
§ 5.4 Meetings of the Minimum Wage Board
§ 5.5 Tenure and conditions of service of Minimum Wage Board members
§ 5.6 Administration of the Minimum Wage Board

§ 5.1 Establishment and composition of the Minimum Wage Board

a) A Minimum Wage Board is hereby established, consisting of the Minister, who shall be the Chairperson, and four other persons appointed by the President on the recommendation of the National Tripartite Council.

b) A member of the Minimum Wage Board appointed by the President shall have demonstrated knowledge of, or experience in one or more of the following fields:

i) labour relations; ii) economics;
iii) law;
iv) social policy; or
v) business, industry or commerce.

c) At least one member of the Minimum Wage Board shall be a woman.

d) Members of the Minimum Wage Board shall be entitled to such remuneration and allowances as the President may determine.

§ 5.2 Functions and responsibilities of the Minimum Wage Board

a) The Minimum Wage Board shall from time to time review and recommend minimum wages that will promote the attainment of decent work in Liberia.

b) Without limiting the scope of the preceding provision, in exercising its powers the Minimum Wage Board shall take into account:

i) the purposes of this Act;

ii) the fundamental rights in Chapter 2 of this Act;

iii) the costs of living, and living standards generally prevailing in the community;

iv) the desirability of setting wages as nearly as possible at a level that would be sufficient to maintain the health, efficiency, and general well-being of employees and their families;

v) the state of economic development and growth, including business productivity; and

vi) the likely impact of increasing wages on business competitiveness and viability.

c) The Minimum Wage Board shall recommend minimum wages that apply to all employees whose employment is covered by this Act.

d) The Minimum Wage Board may recommend different minimum wages for different economic sectors and occupations.

e) The Minimum Wage Board may recommend minimum wages in the form of piece rates where appropriate to the customs and traditions in an industry.

f) In its first recommendations following the entry into force of this Act, the Minimum Wage Board shall give consideration to the most appropriate means and time frame for introducing new levels of minimum wages.

g) The Minimum Wage Board shall submit an annual report to the Minister, who shall cause it to be published in the Annual Report of the Ministry of Labour.

§ 5.3 Procedure of the Minimum Wage Board

a) To assist in its deliberations, the Board shall have the power to administer oaths, compel witnesses and the production of all books, records, and other evidence relevant

to any matter under investigation, and to require government agencies to supply any relevant information which they may have available.

b) In a proceeding before the Minimum Wage Board, the Board shall not be bound by the strict rules of evidence prevailing in courts of law or equity.

c) The Minimum Wage Board shall submit its recommendation in writing to the Minister within 60 days of the conclusion of any review of minimum wages.

d) A recommendation of the Minimum Wage Board shall adequately disclose the reasons for its recommendation, including the evidence and considerations upon which the recommendation is based.

e) The Minister shall publish minimum wage rates recommended by the Minimum Wage Board in the Official Gazette of the Republic of Liberia within 60 days of the date of the recommendation.

f) A minimum wage order takes effect from the date that it is published in the Official Gazette of the Republic of Liberia.

§ 5.4 Meetings of the Minimum Wage Board

a) The Minimum Wage Board shall meet within six months of this Act coming into force.

b) Thereafter the Minimum Wage Board shall meet at such time and places as the Minister may determine, but shall meet at least once in every period of twelve calendar months counted from the first meeting after this Act comes into force.

§ 5.5 Tenure and conditions of service of Minimum Wage Board members

a) A member of the Minimum Wage Board is appointed for a five year term.

b) The National Tripartite Council may recommend a person for appointment to the Minimum Wage Board who has already served as a member.

c) A member of the Minimum Wage Board may serve continuously for a maximum of two terms.

d) No person may serve more than two terms as a member of the Minimum Wage Board.

e) A member of the Minimum Wage Board shall hold office during good behavior. A member may be removed for conviction of a felony or misdemeanor, incapacity or prolonged sickness.

§ 5.6 Administration of the Minimum Wage Board

The Minister shall provide reasonable support for the performance of the functions of the Minimum Wage Board, and in particular:

a) Shall make staff members in the Ministry available to perform administrative and clerical work for the Minimum Wage Board in the performance of its functions; and

b) May designate a staff member in the Ministry to serve as a secretary to the Minimum Wage Board.

CHAPTER 6 – THE LABOUR SOLICITOR

§ 6.1 Office of the Labour Solicitor
§ 6.2 Qualification for appointment and tenure
§ 6.3 Duties of the Labour Solicitor
§ 6.4 Application to be represented by the Labour Solicitor

§ 6.1 Office of the Labour Solicitor

a) There is hereby established a position of Labour Solicitor.

b) The Minister:

i) shall make staff members in the Ministry available to perform administrative and clerical work for the Labour Solicitor in the performance of his or her functions; and

ii) subject to the Civil Service Act, may appoint legally qualified persons to assist the Labour Solicitor in the performance of his or her work

§ 6.2 Qualification for appointment and tenure

a) The Labour Solicitor shall be a lawyer admitted to legal practice in the Republic with preference given to candidates with demonstrable experience in the field of employment and labour law.

b) The Minister shall appoint the Labour Solicitor upon the advice of the National Tripartite Council.

c) The Labour Solicitor shall be appointed, and shall serve, in accordance with the provisions of the Civil Service Agency Act as contained in Chapter 66 of the Executive Law, or such other Act as may be enacted in its place.

§ 6.3 Duties of the Labour Solicitor

It shall be the duty of the Labour Solicitor to conduct proceedings on behalf of and to represent employees who have declared under oath their inability to retain Counsel because of financial destitution:

a) In all matters before the Ministry; and

b) In all labour matters before the Labour Courts.

§ 6.4 Application to be represented by the Labour Solicitor

Any employee who is in need of the services of the Labour Solicitor may apply for that assistance at the Ministry, which shall prescribe procedures as appropriate.

CHAPTER 7 – ADMINISTRATION

§ 7.1 Power to issue regulations
§ 7.2 Power to fix fees
§ 7.3 Collection of labour statistics
§ 7.4 Privacy protection

§ 7.1 Power to issue regulations

a) The Ministry is authorized to issue regulations not inconsistent with this Act or any other law.

b) This power operates in addition to any other power that the Ministry may have to issue regulations, by virtue of this or any other Act.

§ 7.2 Power to fix fees

a) The Ministry is authorized, subject to the approval of the President, to fix just and reasonable fees to be charged for issuing and recording documents and performing other administrative services for members of the public in connection with the fulfillment of its functions.

b) A fee that is charged for a service provided by the Government shall only be considered just and reasonable within the meaning of this section if does not exceed the

amount that would be sufficient to compensate the Government for the cost of rendering the service for which the charge is imposed.

§ 7.3 Collection of labour statistics

a) For the purposes of exercising its functions under Chapter 34 of the Executive Law, the Ministry shall have the power to collect statistics under this section.

b) The Ministry shall regularly collect, compile, analyze, and publish labour statistics, which shall be progressively expanded in accordance with its resources to cover the following subjects:

i) economically active population, employment, unemployment, and where possible visible underemployment;
ii) structure and distribution of the economically active population, for detailed analysis and to serve as benchmark data; iii) average earnings and hours of work (hours actually worked or hours paid for) and, where appropriate, time rates of wages and normal hours of work; iv) wage structure and distribution; v) labour cost; vi) consumer price indices; vii)occupational injuries and, as far as possible, occupational diseases; and viii) industrial disputes.

c) Without limiting the scope of the preceding provision, the Ministry shall be charged in particular with having available current statistics relating to:

i) Actual earning in the various industries and occupations;

ii) Current rates of wages in various industries and occupations; and

iii) The cost of living, including cost-of-living index numbers, for various economic groups of different consumption patterns.

d) The Ministry is authorized and empowered to request and collect data from any person, corporation, partnership, or other legal entity, Ministry, Bureau, or agency of government which it may deem necessary for the compilation of statistics which it has the duty of collecting under this section.

e) Any person, Ministry, Bureau or agency of government which receives a request from the Ministry under this section shall comply with such request by furnishing accurate information within a reasonable time.

f) Any person, corporation, partnership or other legal entity that fails to respond to a request for information under this section within a reasonable time shall be subject to a fine

of not less than one hundred dollars and not more than five hundred dollars. **§ 7.4 Privacy protection**

a) Information obtained pursuant to this section shall be used by the Ministry only for the purpose of compiling statistics.
b) Neither the Ministry nor any official engaged within it shall divulge or publish in any way information gathered under this section in such a way that it would disclose the private affairs of any person.

CHAPTER 8 – THE LABOUR INSPECTORATE

§ 8.1 Establishment of the Labour Inspectorate
§ 8.2 Functions of labour inspectors
§ 8.3 Powers of labour inspectors
§ 8.4 Power to issue compliance notice
§ 8.5 Procedure upon failure to comply with notice
§ 8.6 Obstruction of labour inspectors
§ 8.7 Responsibilities of labour inspectors
§ 8.8 Confidentiality of complaints
§ 8.9 Conduct of inspectors

§ 8.1 Establishment of the Labour Inspectorate

a) The Minister shall appoint as many labour inspectors as are necessary to carry out adequately the functions of the inspection system.

b) The Minister shall appoint both women and men as labour inspectors and, where necessary, may assign special duties to women and men inspectors.

c) Labour inspectors shall be appointed in accordance with the Civil Service Act.

d) Subject to the Civil Service Act, the Minister shall determine the qualifications for appointment as a labour inspector.

e) A labour inspector shall be provided with an identity card and shall carry the identity card at all times when exercising powers or performing functions under this Act.

§ 8.2 Functions of labour inspectors

The functions of labour inspectors are to:

a) Secure the enforcement of:

i) this Act, including any regulations made under it; ii) minimum wage orders; and
iii) the terms of:

(1) employees' contracts of employment; and
(2) collective agreements;

b) Supply technical information and advice to employers and workers concerning the most effective means of complying with the requirements of this Act;

c) Investigate complaints from workers received by the Ministry and referred for further investigation; and

d) Perform such additional functions as may be provided for in this Act and as may be prescribed.

§ 8.3 Powers of labour inspectors

For the purposes of the administration of this Act or the enforcement of any requirements of this Act, a labour inspector may:

a) Enter freely and without previous notice at any hour of the day or a **workplace** liable to inspection;

b) Enter by day any premises which they may have reasonable cause to believe to be liable to inspection;

c) Direct that the workplace or any part of it not be disturbed as long as it is reasonably necessary to search or inspect the workplace; and

d) Search for and examine any book, document or object which the labour inspector reasonably believes is relevant to the investigation or other function being conducted by the labour inspector*;*

e) Examine, make a copy or seize any book, document, object or substance produced pursuant to this section;

f) Take a sample of any object or substance produced pursuant to this section;

g) Take a sample of the atmosphere or of any material or object found;
h) Take measurements, readings, recordings or photographs;

i) Question any person at the workplace, but without requiring any person to give information that may incriminate that person;

j) Inspect or view any work, material, machinery or appliance;

k) Require any person who has control over any book, document, object or substance, whether held at the workplace or not, and which the labour inspector reasonably believes is relevant to the investigation or other function being conducted by the labour inspector:

i) to produce the book, document, object or substance; and

ii) to explain any entry in the book or document, or on the object;

l) Advise, and if necessary, assist any person in initiating or instituting any application, referral or complaint under this Act or settling any application, referral or complaint under this Act;

m) Be assisted where necessary by a member of the Police, an interpreter or such other person with appropriate technical expertise as may be required by the labour inspector;

n) Make such orders, issue such notices, and perform such other functions as are provided for in this Act or by the regulations, or by any other Act.

§ 8.4 Power to issue compliance notice

a) If a labour inspector reasonably believes that a person:

i) is violating a provision of:

(1) this Act, other than Part Six or any regulations made under that Part;
(2) the regulations;
(3) a minimum wage order; or
(4) an applicable collective agreement; or

ii) has violated such a provision in circumstances that make it likely that the contravention will continue or be repeated, then the labour inspector may issue to the person a written compliance notice requiring the person to stop and/or to remedy the contravention or likely contravention.

b) A compliance notice shall:

i) state the basis for the labour inspector's belief on which the issue of the notice is based;

ii) specify the provision that the labour inspector considers is being or has been contravened or of which a contravention is threatened;

iii) specify a date by which the person is required to remedy the contravention, which shall not be more than 28 days from the date of the compliance notice; and

iv) set out the procedures under this Act to enforce compliance with the notice.

§ 8.5 Procedure upon failure to comply with notice

a) If a person fails or refuses to comply with a notice issued by a labour inspector under the preceding section, a labour inspector may bring a verified complaint in writing to the Ministry to enforce compliance with the notice.

b) A labour inspector shall bring any complaint to enforce compliance with a notice within fifteen days after the date specified in the notice by which the person who received the notice was required to take any action or do any thing to remedy an alleged violation of this Act.

c) A labour inspector shall sign a written complaint and file it with the Ministry of Labour.

d) A verified written complaint shall state the name and address of the person or persons alleged to be committing a violation and shall set forth any information which may be required by the Ministry.

§ 8.6 Obstruction of labour inspectors

A person who knowingly obstructs or hinders a labour inspector in the exercise of their functions under this Act should be reported to the Ministry and shall be guilty of a first degree misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punishable by a fine not exceeding $500.

§ 8.7 Responsibilities of labour inspectors

a) The powers conferred on labour inspectors by this Act shall be exercised:

i) in a reasonable manner which takes into account the requirement of this Act and the interests of the persons affected by the exercise of the powers;

ii) in the manner prescribed by, and with regard to any applicable code of good practice; and

iii) as soon as is practicable after a complaint is made or the assistance of a labour inspector is requested.

b) In order to enter or to remain in a workplace as the case may be, a labour inspector shall show their identity card to:

i) the employer;

ii) the owner of the workplace; or

iii) the occupier or apparent occupier of the workplace.

iv) Notwithstanding the operation of paragraph b), a labour inspector need not identify themselves if they consider that it may be prejudicial to the performance of their duties.

c) Unless it is not practicable to do so, a labour inspector who seizes a book, document, or object pursuant to the powers conferred by this Act, shall allow the person from whom the book, document or object is seized to make a copy or take a photograph of it.

d) A labour inspector must issue a receipt for any book, document or object seized, at the time the labour inspector seizes the book, document or object.

e) During the period for which a labour inspector retains a book, document or object seized pursuant to the powers conferred by this Act, the labour inspector shall permit the person otherwise entitled to possession of the book, document or object, or a person authorized by that person, to inspect or make copies of such book, document or object at all reasonable times.

f) If a labour inspector exercises a power under this Act to take a sample of any atmosphere, material, object, or substance, the labour inspector shall notify the employer, the owner of the workplace, or the occupier or apparent occupier of the workplace, and provide them with a portion of the sample.

g) A labour inspector shall treat as confidential any information obtained in the exercise of powers conferred by this Act, and may only disclose it to interested authorities if such disclosure is on reasonable grounds necessary to the administration of any provisions of this Act or any other law.

§ 8.8 Confidentiality of complaints

a) Any person who complains to the Ministry in relation to a suspected breach of:

i) this Act, including any regulations made under it; ii) a minimum wage order; or iii) the terms of:

(1) a contract of employment; or

(2) a collective agreement. shall be entitled to have their identity kept confidential.

b) The identity of a person who makes a complaint under the preceding subsection may only be disclosed if the person consents, or if the disclosure is to a person interested, on reasonable grounds necessary to the administration of any provision of this Act or any other law.

§ 8.9 Conduct of inspectors

a) A labour inspector is forbidden, even after termination of their employment with the Ministry, to divulge, except as required by their duties, any information coming to their knowledge in the course of their employment.

b) A labour inspector shall not disclose, except to a superior officer, the source of any complaint received by the labour inspector during the course of their employment.

c) A labour inspector shall not accept from the employer or employees in any workplace or premises any thing of value.

d) A labour inspector who violates this section shall be removed from office.

e) A violation of paragraph c) shall be punishable under the relevant provisions of Chapter 12 of the Penal Law.

CHAPTER 9 – HEARINGS

§ 9.1 Action by the Ministry upon issue of complaint from labour inspector
§ 9.2 Action by the Ministry upon receipt of complaint from employer or worker
§ 9.3 Hearing by the Ministry
§ 9.4 Consequences of respondent's failure to attend hearing
§ 9.5 Decision by the Ministry
§ 9.6 Place of hearing
§ 9.7 Securing evidence
§ 9.8 Procedure upon disobedience of subpoena

§ 9.1 Action by the Ministry upon issue of complaint from labour inspector

a) The Ministry shall determine whether or not to take action under this section within 30 days of receiving a written complaint from a labour inspector in accordance with this Act. The Ministry may modify such a complaint before taking action under this section.

b) If the Ministry considers that the complaint by a labour inspector shows that a violation of the law has occurred or may be occurring, it shall notify the person the subject of the complaint in writing, and shall include a copy of the complaint. The notice

shall require the person named in the complaint answer the charges contained therein at a hearing before the Ministry at a time and place to be specified in such notice.

§ 9.2 Action by the Ministry upon receipt of complaint from employer or worker

a) An employer or a worker, or a person representing the employer or worker, may make a complaint concerning a violation of the employer's or the worker's rights to the Ministry.

b) A complaint under this section may concern an alleged violation of:

i) this Act, including any regulations made under it;

ii) a minimum wage order; or

iii) the terms of:

(1) a contract of employment; or
(2) a collective agreement.

c) Except as provided in section § 14.9, a complaint may be made under this section at any time within three years of the time that the right to relief accrues, otherwise such complaint shall not be entertained by the Ministry.

d) The Ministry shall determine whether or not to take action under this section within 30 days of a complaint being made.

e) The Ministry shall notify the person who made the complaint within 45 days of the complaint being made if the Ministry decides not to take any action under this section.

f) The Ministry shall reduce the complaint to writing before taking action under this section.

g) If the Ministry considers that the complaint requires further investigation, it shall refer the matter to a labour inspector for investigation under Chapter Eight.

h) If the Ministry considers that the complaint shows that a violation of the law has occurred or may be occurring, it shall notify the person the subject of the complaint in writing, and shall include a copy of the complaint. The notice shall require the person named in the complaint to answer the charges contained therein at a hearing before the Ministry at a time and place to be specified in such notice.

§ 9.3 Hearing by the Ministry

a) A person who receives a notice issued by the Ministry under section § 9.1 or section § 9.2 shall answer the charges contained therein at a hearing before the Ministry at the time and place specified in such notice.

b) At a hearing before the Ministry into a complaint filed by a labour inspector, the inspector who filed the complaint shall not participate in the deliberation of the Ministry in the case.

c) The Ministry shall designate as many qualified officers employed by the agency as may be necessary to hold hearings required by this Act. Officers designated to hold hearings shall perform no duties inconsistent with their duties and responsibilities as hearing officers.

d) The respondent to a notice under this section may file a written verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony.

e) The Ministry, the complaining inspector, or the complaining employer or worker shall have the power reasonably and fairly to amend any complaint, and the respondent shall have like power to amend their answer.

f) In a hearing under this section, the Ministry shall not be bound by the strict rules of evidence prevailing in courts of law or equity.

g) The testimony taken at a hearing under this section shall be under oath, and wherever practicable it shall be transcribed.

h) The Ministry's copy of any testimony shall be available at all reasonable times to the parties for examination without cost and, for the purposes of judicial review of any order of the Ministry.

i) A party has the right to examine and cross-examine at a hearing before the Ministry under this Chapter, as do Counsel.

§ 9.4 Consequences of respondent’s failure to attend hearing

a) Where a respondent fails to attend a hearing, the Ministry may provide a further opportunity for the respondent to attend another hearing. Such notice shall require the respondent to attend a further hearing before the Ministry at a time and place to be specified in such notice.

b) If a respondent fails to appear at a hearing on two or more occasions in connection with the same complaint, the Ministry may proceed to make a decision without further delay in accordance with section § 9.5.

c) In its decision, the Ministry shall attach proof of service of the notices and complaint, and shall provide a concise statement of the respondent's failure to attend.

§ 9.5 Decision by the Ministry

a) At the conclusion of a hearing the Ministry shall state its findings of fact.

b) The Ministry may dismiss a complaint if it finds that the respondent has not engaged in the violation that is the subject of the notice.

c) If the Ministry finds that a respondent has committed or is committing a violation of any provision of this Act, it:

i) shall issue and cause to be served on the respondent an order requiring them to:

(1) cease and desist from continuing such violation; and
(2) take such affirmative and remedial action as is specified in the law or as, in the judgment of the Ministry, will effectuate the purposes of this Act; and

ii) may order the respondent to pay a fine not exceeding $500.

d) The powers of the Ministry in this section operate in addition to its powers under section § 14.10.

e) An order of the Ministry issued under this section shall include a requirement for the respondent to report on the manner of compliance.

f) A respondent shall comply with an order of the Ministry under this section, and shall report on their compliance in such terms as the order may require.

g) The Ministry shall keep on file a copy of all orders it makes in proceedings under this Chapter.

§ 9.6 Place of hearing

The Ministry may hold a hearing at any place within the Republic convenient to the place of residence of an employer that is charged with a violation of this Act, or to the workplace or premises where a violation is alleged to be occurring.

§ 9.7 securing evidence

The Ministry of Labour is hereby empowered, in connection with any matter under investigation or in question before the Ministry to do the following things:

a) Hold hearings;

b) Issue subpoenas:
i) to compel the attendance of witnesses and parties to the case; or ii) to produce books, papers, documents and other evidence;

c) Administer oaths and take the testimony of any person under oath.

§ 9.8 Procedure upon disobedience of subpoena

a) In case of disobedience to a subpoena issued under the preceding section, the Ministry may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

b) Any Labour Court or Circuit Court within the jurisdiction of which any such investigation may be conducted may, in case of contumacy or refusal of a person to obey a subpoena issued to any corporation or other person, issue an order requiring such person to appear before the Ministry or to produce documentary evidence if so ordered, or to give evidence touching the matter in question.

c) Any failure to obey such order of the Court may be punished by such Court as contempt thereof.

d) Any person who willfully neglects or refuses in such investigation, in obedience to a subpoena or other lawful requirement of the Ministry:

i) to attend or testify at such investigation by the Ministry; or

ii) to answer any lawful inquiry; or

iii) to produce documentary evidence, if it is in their power to do so, shall be guilty of a first degree misdemeanor and upon conviction thereof by a court of competent jurisdiction shall be punishable by a fine not exceeding $500.

CHAPTER 10 – APPEALS

§ 10.1 Appeals
§ 10.2 Jurisdiction
§ 10.3 Procedure

§ 10.1 Appeals

a) A person aggrieved by a decision of the Ministry under section § 9.2 not to take action concerning a complaint may appeal against that order within thirty days after being notified of the decision of the Ministry.

b) A party aggrieved by an order of the Ministry under section § 9.5 may appeal against that order within thirty days after service of the order on the parties.

§ 10.2 Jurisdiction

a) Proceedings under this Part shall be brought before the Labour Court of the County in which the Ministry held its hearing in the case.

b) In the event that there is no Labour Court in the county in which the Ministry held its hearing in the case, proceedings shall be brought before the Circuit Court of the county in question.

§ 10.3 Procedure

a) Proceedings under this section shall be governed by the procedures of section 82.8 of the Executive law and the Civil Procedure Law insofar as such procedures are not inconsistent with the provisions contained in this Chapter.

b) A party who initiates proceedings under this section shall file a petition in such Court, together with any written transcript of the record upon the hearing before the Ministry. The Court shall thereafter issue and serve a notice on each party of the time and place fixed for the proceeding.

c) Once proceedings have been initiated in accordance with this section the Court shall have jurisdiction of the proceeding and shall have power to:

i) grant such temporary relief or restraining order as it deems fit; and

ii) make an order enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Ministry.

d) No party in a proceeding before a Court under this section may raise any objection that was not urged before the Ministry unless the failure or neglect to urge such objection may be excused because of extraordinary circumstances.

e) A party in a proceeding before a Court under this section may move the Court to remit the case to the Ministry in order to adduce additional specified and material evidence, and to seek findings thereon, provided the party shows reasonable grounds for the failure to adduce that evidence before the Ministry.

f) The findings of the Ministry as to the facts shall be conclusive if supported by sufficient evidence on the record, considered as a whole.

g) The judgment and order of the Labour or Circuit Court shall be final, subject only to review by the Supreme Court.

h) Proceedings under this section shall be heard and determined as expeditiously as possible.

CHAPTER 11 – ENFORCEMENT

§ 11.1 Enforcement
§ 11.2 Jurisdiction
§ 11.3 Procedure

§ 11.1 Enforcement

a) The Ministry may apply to the court to enforce an order issued under section § 9.5 within ninety days after service of the order on the parties.

b) An employer or a worker in whose favour an order is issued under section § 9.5 may apply to the court to enforce the order within ninety days after service of the order on the parties.

§ 11.2 Jurisdiction

a) Proceedings under this Chapter shall be brought before the Labour Court of the County in which the Ministry held its hearing in the case.

b) In the event no Labour Court exists in the county in which the Ministry held its hearing in the case, proceedings shall be brought before the Circuit Court of the county in question.

§ 11.3 Procedure

a) Proceedings under this section shall be governed by the Civil Procedure Law insofar as such procedures are not inconsistent with the provisions contained in this Chapter.

b) A party who initiates proceedings under this section shall file a petition in such Court, together with any written transcript of the record upon the hearing before the Ministry. The Court shall thereafter issue and serve a notice on each party of the time and place fixed for the proceeding.

c) Once proceedings have been initiated in accordance with this section the Court shall have jurisdiction of the proceeding and shall have power to:

i) grant such temporary relief or restraining order as it deems fit; and

ii) make an order enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Ministry.

d) No party in a proceeding before a Court under this section may raise any objection that was not urged before the Ministry unless the failure or neglect to urge such objection may be excused because of extraordinary circumstances.

e) A party in a proceeding before a Court under this section may move the Court to remit the case to the Ministry in order to adduce additional specified and material evidence, and to seek findings thereon, provided the party shows reasonable grounds for the failure to adduce that evidence before the Ministry.

f) The findings of the Ministry as to the facts shall be conclusive if supported by sufficient evidence on the record, considered as a whole.

g) The judgment and order of the Labour or Circuit Court shall be final, subject only to review by the Supreme Court.

h) Proceedings under this section shall be heard and determined as expeditiously as possible.

PART IV: EMPLOYMENT AND TERMINATION OF EMPLOYMENT

CHAPTER 12 – GENERAL

§ **12.1 Object**

§ 12.1 Object

The object of this Part is to establish a legal framework to facilitate the establishment and the orderly termination of employment relationships, and among other things to identify:

a) The types of contracts of employment and how they may be made;
b) When and how contracts of employment may be terminated;
c) What happens to contracts of employment in the event of a change in the ownership of a business; and
d) The remedies that are available for invalid termination of employment.

CHAPTER 13 – EMPLOYMENT CONTRACTS

§ 13.1 Basic provisions concerning contracts of employment
§ 13.2 Right to convert casual employment to part-time or full-time employment
§ 13.3 When a contract of employment ends
§ 13.4 Change of business ownership does not affect contracts of employment

§ 13.1 Basic provisions concerning contracts of employment

a) Subject to this section, a contract of employment may be oral or written, and may be for:

    i) a definite period; ii) an indefinite period; or iii) the completion of a specific task.

b) A contract of employment may be for employment that is:

    i) full-time; ii) part-time; or iii) casual.

c) A contract of employment may require that an employee serve a probationary period, provided that it shall not be more than three months.

d) Every contract shall contain all such particulars as necessary to define the rights and obligations of the parties and shall in all cases include:

i) the name of the employer and the place of employment;

ii) the name of the employee, the place of engagement and, where practicable, the place of origin of the employee and any other particulars necessary to identify the employee;

iii) the nature of the employment and position to be held;

iv) the duration of the employment;

v) the appropriate period of notice to be given by the party wishing to terminate the contract, which shall not be less than the minimum period of notice provided for in section § 14.6; *4 weeks after 12 months service*

vi) the rates of remuneration and method of calculation thereof, the manner and periodicity of payment of wages and advances of wages, if any, and the manner of payment of any such advances;

vii)the measures to be taken to provide for the welfare of the employee and any members of the employee's family who may accompany the employee under the terms of the contract;

viii) the conditions of repatriation, where the contract is for employment outside the Republic of Liberia; and

ix) any special conditions of the contract.

e) An employer shall provide an employee with information about their fundamental rights under Chapter Two of this Act, and also their minimum conditions of employment under this Act.

f) The Minister may prescribe the information or types of information that an employer shall give to an employee for the purposes of paragraph e).

g) The Minister, with the advice of the National Tripartite Council, shall within the first six months of this Act coming into operation publish an information statement for employers to provide to employees which explains their fundamental rights under Chapter Two of this Act, and also their minimum conditions of employment under this Act.

h) The Minister, with the advice of the National Tripartite Council, may publish new versions of the information statement referred to in paragraph g).

i) An employer who provides an employee with a copy of the information statement published by the Minister pursuant to paragraph g) or h) will be taken to have complied with the obligation in paragraph e).

j) Without limiting the scope of the preceding provisions, an employer may comply with this section by:

    i) making a written contract of employment with an employee and providing the employee with a copy of the contract; or

    ii) making an oral contract with the employee and:

        (1) providing the employee with a written statement that contains the required information; or

        (2) if the terms of the oral contract are the same as those applying to other employees, posting a notice in the workplace which contains the required information in such languages as may be appropriate for the employees concerned.

k) The employer shall keep a copy of the written contract or the written statement referred to in paragraph j) throughout the employee's employment, and for a period of five years after the termination of the employment.

l) If in any legal proceedings, an employer fails to produce a copy of the written contract or the written statement referred to in paragraph j), the burden of proving or disproving an alleged term of employment shall be on the employer.

§ 13.2 Right to convert casual employment to part-time or full-time employment

a) A casual employee who is engaged by the same employer on a regular and systematic basis for a sequence of periods of employment during a period of six months shall thereafter have the right to choose instead to become a full- time or part-time employee, according to the number of hours the employee is usually engaged to work.

b) An employer of a casual employee within the meaning of paragraph a) shall give the employee written notice within four weeks of the employee having been so engaged for a period of six months.

c) An employee who receives a notice under paragraph b) of this section shall choose whether to change their employment status within four weeks of receiving the notice, and an employee who takes no action within that period will be deemed to have chosen not to change their employment status.

d) An employee who wishes to exercise a right under this section to convert their employment status shall do so in writing.

e) Despite paragraph c) of this section, an employee who has received a notice under paragraph b) of this section may at any time after the expiration of four weeks from receiving that notice, give their employer four weeks' notice in writing that they wish to change their employment status.

f) An employer who receives a written notice from an employee under paragraph
e) shall not unreasonably refuse to allow the employee to change their employment status.

g) Once an employee has elected to become a full-time employee or a part-time employee, the employee may only revert to casual employment by written agreement with their employer.

h) The Minister may by regulation make further provision for the operation of this provision, including by prescribing the form or forms of notice to be used.

§ 13.3 When a contract of employment ends

A contract of employment may end in one of the following ways:

a) Subject to the terms of the contract and Chapter Fourteen, an employee and an employer may by mutual consent choose at any time to end a contract for an indefinite period;

b) A contract of employment for a definite period ends when the period of time specified in the contract is reached;

c) A contract of employment to complete a specific task ends when the specific task for which the employee was employed has been completed;

d) In the event that the employer becomes bankrupt or insolvent; or

e) In the event that a party to the contract dies.

§ 13.4 Change of business ownership does not affect contracts of employment

a) Change of ownership of a business shall not adversely affect the terms and conditions of employment of workers who continue to be employed in such a business, and their contracts of employment are deemed for all purposes to have continued unbroken.

b) Without limiting the generality of the preceding provision, after a change of ownership, the new employer is:

i) responsible for any outstanding benefits or entitlements owed to the employees at the time of the change of ownership; and

ii) in relation to an employee contemplated by this section bound by:

(1) this Act, and any regulations made under it;
(2) any applicable minimum wage order;
(3) the terms of any collective agreement made under this Act which applied to the former employer; and
(4) the obligations of an employer toward an employee under any other law; and

iii) in relation to a registered trade union that is recognized as an exclusive bargaining agent for a bargaining unit:

(1) bound by the terms of:

(a) a notice under section § 37.1 e) from the former employer, recognizing a registered trade union as an exclusive bargaining agent; or

(b) a declaration by the Ministry under section § 37.1

1) that a registered trade union should be recognized as an exclusive bargaining agent; and

(2) entitled to exercise the rights of the former employer under sections § 37.1 k) and l).

CHAPTER 14 – TERMINATION OF EMPLOYMENT

§ 14.1 Ministry to publish code of good practice
§ 14.2 Termination of employment in general
§ 14.3 Grounds for immediate termination of employment
§ 14.4 Grounds for termination of indefinite employment
§ 14.5 Termination of employment for redundancy
§ 14.6 Employer to give notice of termination of employment
§ 14.7 Constructive termination of employment
§ 14.8 Prohibited grounds of termination

§ 14.9 Review of decision to terminate employment
§ 14.10 Remedies for invalid termination of employment

§ 14.1 Ministry to publish code of good practice

a) The Minister, with the advice of the National Tripartite Council, shall publish a code of good practice on how to comply with this Chapter, within the first twelve months of this Act coming into force.

b) The code of good practice issued under this section shall take account of the National HIV and AIDS Workplace Policy.

§ 14.2 Termination of employment in general

a) An employer has the right to terminate employment concluded for a definite period at any time provided that he has cause to do so under section § 14.3.

b) An employer has the right to terminate employment concluded for an indefinite period at any time provided that the employer:

i) has cause to do so under sections § 14.3, § 14.4 or § 14.5; and

ii) follows the procedures specified in those sections, as appropriate.

c) In no event may the employer terminate employment for any reason contained in section § 14.8.

d) In the event that the employer terminates an employee's employment without complying with the provisions of this Chapter, the employee shall have a right of redress and sections § 14.9 and § 14.10 shall apply.

e) In the event that an employee is a victim of constructive dismissal within the meaning of section § 14.7, the employee shall have a right of redress and sections § 14.9 and § 14.10 shall apply.

§ 14.3 Grounds for immediate termination of employment

a) An employer may immediately terminate an employee's employment for grave misconduct which makes it impossible to continue or to resume the necessary relationship of mutual trust and confidence between:

i) the employee and the employer; or

ii) the employee and other employees of the employer.

b) An employer shall have a right to terminate employment there is cause to do so under this section irrespective of whether the employment was concluded for a definite period or for an indefinite period.

c) An employer shall not be required to give notice of termination of employment when he has cause to do so under this section.

d) Without limiting the scope of the preceding provision, the following are examples of actions which may constitute grave misconduct for the purposes of this section:

i) an employee is unable to carry out their function effectively due to the consumption of alcoholic drinks, narcotics, psychotropic substances or other like addictive substances in the working environment;

ii) an employee has breached the fundamental rights of another employee as they are protected in Chapter 2 of this Act;

iii) an employee has sexually harassed another employee within the meaning of section § 2.8.

iv)an employee has attacked, battered, threatened, or intimidated his or her co-workers or the employer:

(1) in the working environment; or
(2) in circumstances which have a sufficient connection to the working relationship;

v) an employee has either carelessly or intentionally destroyed or let property of the employer be destroyed, leading to significant losses to the enterprise; vi) an employee has either carelessly or intentionally exposed their fellow employees or other persons to risks to their safety and health in or arising from the workplace;

vii)an employee has been absent from work for more than 10 consecutive days or more than 20 days over a period of 6 months without good cause or explanation; or

viii) an employee has breached their obligation to protect and keep secure confidential information of their employer, provided that an employer may not terminate an employee's employment on this ground if the employee released the confidential information in order to:

(1) expose serious misconduct or wrongdoing by the employer; or
(2) protect the public interest.

§ 14.4 Grounds for termination of indefinite employment

a) An employer may only terminate the employment of an employee engaged for indefinite employment for just cause, based on:

i) the ability of the employee to perform the work required of them in accordance with the terms of:

(1) their contract;
(2) any collective agreement that applies to their work; or
(3) this Act and any regulations made under it; or

ii) the conduct of the employee:
(1) at work; or
(2) in circumstances which have a real and substantial connection to the working relationship; or

iii) the operational requirements of the undertaking, establishment or service.

b) **In all cases an employer shall implement a fair internal procedure before making a final decision whether to terminate an employee's employment.**

§ 14.5 Termination of employment for redundancy

a) This section applies to redundancy where an employer is considering terminating the employment of one or more employees by reducing the number of employees as a result of a reorganization or transfer of the business or a discontinuance or reduction of the business for economic, technological or structural reasons, including for reasons of bankruptcy, dissolution, closure, or cessation of the business.

b) An employer shall provide notice to the employee under section § 14.6 and pay severance pay to an employee if the employee's employment is terminated because of economic reasons.

c) An employee whose employment is terminated because of economic reasons is entitled to four weeks of severance pay for each completed year of service.

d) The obligation in this section to pay severance pay operates in addition to any other obligation arising from the termination of the employee's employment, whether under this Act or otherwise.

e) When determining which employees to make redundant, the employer shall adopt the principle of "first in last out", however, where the length of service of the employees shall be relatively equal the employer shall consider qualifications and efficiency.

f) Where an employer has made a definite decision that will lead to termination of employment of one or more employees for the reasons identified in the preceding paragraph, the employer shall provide the information that is specified in paragraph (g) below to:

i) the Ministry;

ii) the employees who may be affected;

iii) any registered trade union that is recognized as an exclusive bargaining agent for a bargaining unit that includes the employees who may be affected; and

iv) any workplace union representative elected from a registered trade union to which employees who may be affected belong.

g) In order to comply with paragraphs (b) and (f) above, the employer shall provide the following information:

i) the intention to terminate the employment of employees;

ii) the reasons for the proposed reductions in the workforce;

iii) the number and categories of employees affected; and

iv) the date on which it is intended that the terminations of employment will take effect.

h) An employer shall provide the information under this section:

i) at least four weeks before the date on which any termination of employment will take effect; or ii) if there are exceptional circumstances, as soon as is practicable.

i) If there is no recognized trade union at the workplace the employer shall provide the information contemplated in paragraph (b) to any workplace representative of the employees at the affected workplace, in accordance with paragraph (c).

j) Under this section an employer shall:

i) disclose all relevant information necessary for the recognized trade union, the workplace representative and/or the employees affected to engage effectively in negotiations over the intended terminations of employment.

ii) negotiate in good faith with the recognized trade union, the workplace representative and/or the employees affected about:

(1) alternatives to termination of the employees' employment;
(2) the criteria for selecting the employees whose employment is to be terminated;
(3) measures to reduce the number of terminations of employment as far as possible;
(4) the conditions on which any terminations of employment are to take place;
(5) ways to avert the adverse effects of the terminations of employment; and
(6) any priority for re-hiring that should be given to the employees whose employment is terminated.

k) An employer is not required by this section to disclose information that is:

i) legally privileged; or ii) confidential, if there is good reason to maintain the confidentiality of the information.

l) Any person aggrieved by the failure of an employer to notify, consult, negotiate or otherwise comply with this section may apply to the Ministry, which may make such orders as are necessary to do justice in the case.

m) Any person may appeal against an order of the Ministry under paragraph l) in accordance with the procedure in section § 10.1.

n) The Ministry may apply for an order to enforce an order made under paragraph h) in accordance with the procedure in section § 11.1.

o) In the event that subsequent new employment arises at a future date, the employer shall consider persons previously declared redundant for reemployment. Failure on the part of the employer to do so shall constitute a violation of this Act.

§ 14.6 Employer to give notice of termination of employment

a) An employer shall give an employee who has completed any period of probation a reasonable period of notice of termination of the employee's employment.

b) Without limiting the scope of the preceding provision, for these purposes the periods of notice set out in the following table are taken to be reasonable:

Period of employee's continuous service	**Minimum number of week's notice**
Less than three months	One week

More than three months but less than six	Two weeks
More than six months but less than one year	Three weeks
More than one year	Four weeks

c) An employer shall give an employee notice of termination of employment in writing, which specifies the last day of the employee's employment.

d) The period of notice shall start on the first day of the pay period next following that in which the notice was served.

e) Notwithstanding the preceding provisions an employer may choose, instead of giving an employee notice of termination, to pay the employee a sum of money equal to that which they would have earned during the minimum period of notice to which they would otherwise have been entitled under this section.

§ 14.7 Constructive termination of employment

a) If an employee leaves their employment because conduct of the employer made it no longer reasonable to continue in employment, the employer is taken, in the absence of proof to the contrary, to have terminated the employee's employment.

b) In any hearing or proceedings following a complaint of constructive dismissal made under this section, the Ministry or the court, as the case may be, shall consider the conduct of the employee, including:

i) whether the employee attempted to address the matter of the employer's conduct with the employer before leaving the employment; and

ii) whether in all the circumstances it would have been reasonable to expect the employee to attempt to address the matter with the employer.

§ 14.8 Prohibited grounds of termination

a) An employer shall not terminate an employee's employment because the employee:

i) is or was entitled to the benefit of a right under this Act; or

ii) exercised or sought to exercise such a right.

b) An employer shall not terminate an employee's employment by reason of temporary absence from work due to illness or injury.

c) Without limiting the operation of the preceding provision, an employee's absence from work due to illness or injury will be taken to be temporary if the employee is exercising a right to paid sick leave under this Act or a collective agreement.

d) In any hearing or proceedings following a complaint of prohibited dismissal made under this section, the Ministry or the court, as the case may be, shall determine whether:

i) the employee is able to prove that they were entitled to the benefit of a right under this Act, and/or that they sought to exercise that right; and

ii) the employer is able to prove that the decision to terminate the employee's employment was not caused or motivated by that entitlement or right, or by its exercise or attempted exercise as the case may be.

§ 14.9 Review of decision to terminate employment

a) Subject to this section, an employee who alleges that their employment was not terminated in accordance with this Act may lodge a complaint to the Ministry in accordance with section § 9.2.

b) An employee shall lodge a complaint under this section within:

i) six months from the date of the employer's decision; or

ii) such longer period of time as the Ministry may allow, if good cause for an extension is shown.

c) An employee may not apply under this section if:

i) the employer decided to terminate the employee's employment while the employee was serving a probationary period in accordance with this Act; or

ii) the employer had grounds to terminate the employee's employment in accordance with sections § 14.3, § 14.4 or § 14.5.

§ 14.10 Remedies for invalid termination of employment

a) If the Ministry or a court determines in a hearing or proceedings under this Act that an employee's employment was not terminated in accordance with this Act, the Ministry or the court, as the case may be, may order:

i) that the employee be reinstated in their employment; ii) that the employer pay to the employee an amount of compensation; or iii) both reinstatement and compensation.

b) In determining the appropriate remedy under this section, the Ministry or the court, as the case may be, shall:

i) order reinstatement unless the employer proves that:

(1) it would not be possible to resume the necessary relationship of mutual trust and confidence between:

(a) the employee and the employer; or
(b) the employee and other employees of the employer; or

(2) the organization of work in the enterprise has so substantially changed that:
(a) the job that the employee was employed to do no longer exists; and
(b) there is no comparable job available for the employee; and

ii) order such compensation, if any, as may be appropriate to do justice in the case, provided that:

(1) if reinstatement is ordered the amount of compensation should not exceed an amount equal to the remuneration that the employee would have earned from the time that their employment was terminated, up until the time of the order for reinstatement;

(2) in any other case, the amount of compensation should not exceed an amount equal to two years' remuneration computed on the basis of the average rate of salary received 6 months immediately preceding the dismissal; and

(3) notwithstanding paragraph (2) above, if there are reasonable grounds to effect a determination that the dismissal is to avoid the payment of pension, then the *Ministry* arbitrator may award compensation of up to but not exceeding the aggregate of 5 years' salary or wages computed on the basis of the average rate of salary received 6 months immediately preceding the dismissal.

(4) in all cases the amount of compensation shall take into account:
(a) any payments made by the employer to the employee at the time of or in consequence of the decision to terminate the employee's employment;
(b) the employee's earnings, if any, since the decision to terminate the employee's employment;
(c) the extent to which the employee attempted to mitigate their loss; and
(d) the reasons why the employee commenced the proceeding when they did.

c) If reinstatement is ordered:

i) the employee:

(1) shall resume employment with the employer within one month of the order for reinstatement; and

(2) is taken for all purposes to have continued in their employment without interruption; and

ii) the employer shall allow the employee to resume employment with the employer.

PART V: MINIMUM CONDITIONS OF EMPLOYMENT

CHAPTER 15 – GENERAL

§ 15.1 Object

§ 15.1 Object

The object of this Part is to set out decent minimum working conditions for all those who work in Liberia, and to provide both employees and employers a fair and balanced mix of protection and flexibility in applying those conditions.

CHAPTER 16 – PROTECTION OF WAGES

§ 16.1 Entitlement to minimum wages
§ 16.2 Employer to post notice of wage rates
§ 16.3 Employer to keep wage records
§ 16.4 Payment of wages
§ 16.5 Deductions from wages
§ 16.6 Further limits on deductions from remuneration

§ 16.1 Entitlement to minimum wages

§ 16.1A

i Every formal sector (concession, industry, business, company, etc.) worker/employee is entitled to be paid a minimum wage of United States Sixty-eight cents (Us$0.68) per hour – United States Five Dollars – Fifty Cents (US$5.50) per day for work that the employee is employed to perform;

ii Every domestic and/or casual worker/employee is entitled to be paid a minimum wage of United States Forty-three Cents (US$0.43) per hour – United States Three Dollars – Fifty Cents (US$3.50) per day for work that the employee is employed to perform;

§ 16.1B

Any provision in a contract of employment for the payment of wages at less than the rate fixed in a minimum wage order shall be null and void.

§ 16.2 Employer to post notice of wage rates

Every employer shall clearly display all wage rates applicable to their employees in a readily accessible location in any workplace under their control.

§ 16.3 Employer to keep wage records

a) Every employer shall keep such records of wages as are necessary to show that the provisions of this Chapter and any applicable collective agreement are being complied with.

b) An employer shall keep the records required under this section throughout the employment of any employee, and for a period of five years following the termination of the employee's employment.

§ 16.4 Payment of wages

a) An employer shall pay wages that are due to an employee in cash, except where the employee agrees in writing to payment of wages by:

i) postal order;

ii) money order;

iii) check; or

iv) lodgment at a financial institution to the credit of an account standing in the name of that employee or in the name of that employee and some other person or persons jointly.

b) An employee may revoke or vary a written agreement as to the manner of payment of their remuneration by giving the employer written notice to that effect, where after the employer shall as soon as practicable alter the method of payment to reflect the employee's most recent written instruction, provided however that an employee may not revoke or vary a written agreement in accordance with this paragraph more than once in any period of six months.

c) An employer shall pay wages to an employee at intervals of not more than one month.

d) Whenever an employer pays remuneration to an employee the employer shall also give the employee a written statement explaining:

i) the gross amount of remuneration earned; ii) any deduction which may have been made, including the reasons for and the amount of each deduction;

iii) the net amount of remuneration earned; and

iv) such other particulars as may be prescribed.

§ 16.5 Deductions from wages

a) Subject to this section, an employer shall pay the full amount of remuneration due to an employee, without deduction, whenever it becomes payable to the employee.

b) An employer may deduct sums from remuneration due to an employee:

i) for any lawful purpose; and

ii) with the written agreement of the employee, provided that an employee may revoke or vary a written request once in every pay period, where after the employer shall stop or vary the deductions concerned as the case may be.

c) Deductions from an employee's remuneration by agreement with the employee:

i) shall not total more than one third of the employee's remuneration; and

ii) may only be made in payment of:

(1) rent in respect of accommodation supplied by the employer;
(2) goods sold by the employer;
(3) a loan advanced by the employer; or
(4) trade union dues, in accordance with section § 37.3.

d) An employer who has overpaid an employee may recover the amount of that overpayment from any remuneration subsequently payable to that employee, provided that:

i) the employer shall first give the employee written notice of the employer's intention to recover the overpayment before recovering it;

ii) the employer shall give notice within the meaning of this section no later than the next following pay-day; and

iii) the overpayment shall be recovered not later than 2 months after that notice is given.

§ 16.6 Further limits on deductions from remuneration

An employer shall not:

a) Levy a fine on an employee unless it is authorized by statute or a collective agreement;

b) Require an employee to:

i) buy goods from a shop owned by the employer or run on its behalf; ii) use the services rendered by the employer for reward; iii) pay for any goods supplied by the employer at a price exceeding an amount equal to the price paid by the employer for the goods plus any reasonable costs incurred by the employer in acquiring the goods;

c) Require or permit an employee to:

i) repay any remuneration duly paid to an employee; or

ii) acknowledge receipt of an amount greater than the remuneration actually received.

CHAPTER 17 – WORKING HOURS AND BREAKS

§ 17.1 Ordinary hours of work
§ 17.2 Variation of ordinary hours of work
§ 17.3 Averaging of hours of work by collective agreement
§ 17.4 Averaging of ordinary hours of work in seasonal industries
§ 17.5 Overtime work
§ 17.6 Work in excess of hours limits in cases of urgency
§ 17.7 Meal breaks
§ 17.8 Employer to post notice of working hours
§ 17.9 Daily rest periods
§ 17.10 Weekly rest periods
§ 17.11 Keeping of records
§ 17.12 Public holidays

§ 17.1 Ordinary hours of work

a) Ordinary hours of work shall be eight hours in any one day or forty-eight hours in any one week.

b) Except as provided in this Chapter, an employer shall not cause or require an employee to work longer than the ordinary hours of work.

§ 17.2 Variation of ordinary hours of work

An employee who works fewer than eight hours on one or more working days of the week may be required to work more than eight hours on the remaining working days of the week, provided that:

a) In no case shall the daily limit of eight hours be exceeded by more than four hours; and

b) Nor shall the weekly limit of forty-eight hours be exceeded.

§ 17.3 Averaging of hours of work by collective agreement

a) A collective agreement may provide for averaging of ordinary hours of work and overtime over a period of up to four months.

b) An employer may not require or permit an employee who is bound by a collective agreement that provides for averaging of ordinary hours and overtime to work more than:

i) an average of 53 ordinary hours of work in a week over the agreed period; or

ii) an average of five hours' overtime in a week over the agreed period.

§ 17.4 Averaging of ordinary hours of work in seasonal industries

In an industry of a seasonal nature, the maximum hours of labour for a period or periods of not more than fourteen work weeks in the aggregate in any calendar year may exceed the maximum hours specified in this Part, provided that no employee working in an industry of a seasonal nature shall work:

a) more than fifty-six hours in any week; or

b) more than a yearly average of forty-eight hours per week.

§ 17.5 Overtime work

a) Subject to sections § 17.3 and § 17.4:

i) an employer may require an employee to work a maximum of five hours' beyond ordinary hours of work in any week, and

ii) all work in excess of ordinary hours, including work in accordance with section § 17.6 shall be paid at a rate not less than fifty per cent above the normal rate for that work.

b) Despite paragraph a) ii), an employee and an employer may agree in writing that an employee who works overtime will be not be compensated with payment above the normal rate, but with extra paid time away from work, provided that the employee shall receive not less than their ordinary rate of remuneration for such time away from work.

§ 17.6 Work in excess of hours limits in cases of urgency

Employees may be required to work beyond the limits on ordinary time work and overtime work in this Chapter in the following cases, but only to the extent necessary to meet the emergency or accomplish the purpose for which the exception is authorized:

a) In a case of actual or imminent disaster or accident in order to avert a peril to life or health, or to prevent serious damage to property, or to ensure the continued operation of the undertaking;

b) In case of work urgently required to be done to the plant, equipment, machinery, or other property to maintain the undertaking;

c) To prevent damage to perishable goods; or

d) To perform work of vital public importance if authorized by the Ministry.

§ 17.7 Meal breaks

a) An employer shall give an employee who works continuously for more than five hours a meal interval of at least one continuous hour, for which time the employee shall be paid.

b) For the purposes of this section, work is continuous unless it is interrupted by an interval of at least 60 minutes.

c) Any rest period for an employee of less than one half hour shall be considered part of an employee's work time.

§ 17.8 Employer to post notice of working hours

a) An employer shall clearly display a notice showing the hours at which work begins and ends and the daily rest periods, in a readily accessible location in any workplace under their control.

b) Where necessary a notice posted under this section shall indicate clearly any differences in working hours for different groups or individuals among the employees.

§ 17.9 Daily rest periods

An employer shall allow an employee a daily rest period of at least twelve consecutive hours between ending and recommencing work.

§ 17.10 Weekly rest periods

An employer shall allow an employee a weekly rest period of at least 36 consecutive hours which, unless otherwise agreed in writing, shall include Sunday.

§ 17.11 Keeping of records

a) An employer shall keep an accurate record of work performed by each employee and the remuneration paid for such work.

b) An employer shall keep the records required under this section throughout the employment of any employee, and for a period of five years following the termination of the employee's employment.

§ 17.12 Public holidays

a) Subject to this section, every employee is entitled to a holiday with pay on the days specified as public holidays in, section 1 of the Patriotic Observances Law.

b) An employer may request that an employee work on a public holiday.

c) An employee may refuse an employer's request under this section if:

i) the request is not reasonable; or

ii) it is reasonable for the employee to refuse.

d) Without limiting the scope of the preceding provision, the following matters are relevant to whether a request or a refusal of a request is reasonable:

i) the nature of the employer's workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;

ii) the employee's personal circumstances, including family responsibilities;

iii) whether the employee could reasonably expect that the employer might request work on the public holiday;

iv) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the public holiday;

v) the type of employment of the employee (for example, whether full-time, part-time, casual or shift work); and

vi) the amount of notice in advance of the public holiday given by the employer when making the request;

vii) the amount of notice in advance of the public holiday given by the employee when refusing the request.

e) An employee who agrees to work on a public holiday is entitled to be paid for that day at twice the normal rate.

f) Despite paragraph e), an employee and an employer may agree in writing that an employee who works on a public holiday will be not be compensated with payment above the normal rate, but with extra paid time away from work, provided that the employee shall receive not less than their ordinary rate of remuneration for such time away from work.

CHAPTER 18 – ANNUAL LEAVE

§ 18.1 Right to annual leave

§ 18.2 Continuity of leave
§ 18.3 Employer to notify employee of entitlement to leave
§ 18.4 Payment to employees who take leave
§ 18.5 Keeping of Records

§ 18.1 Right to annual leave

a) Subject to this Act, every employee is entitled to a minimum uninterrupted period of annual leave as follows:

i) during the first twelve (12) months of continuous service with an employer, the number of working days in one (1) week

ii) during the first twenty-four (24) months of continuous service with an employer, the number of working days in two (2) weeks;

iii) for continuous service of thirty-six (36) months, the number of working days in three (3) weeks; and

iv) for continuous service with the same employer for sixty (60) months and thereafter, the number of working days in four (4) weeks.

b) An employee's entitlement to annual leave accumulates throughout their years of continuous service with an employer, provided that an employee may not accumulate more than three years' entitlement to annual leave.

c) Weekly rest days and public holidays shall not be reckoned as part of annual leave to which an employee is entitled under this section.

§ 18.2 Continuity of leave

a) Subject to this section, an employee shall take annual leave in a single period.

b) An employer may permit an employee who is entitled to more than one week's leave to take such leave in two parts provided that at least one period of leave shall be no less than one week's duration.

§ 18.3 Employer to notify employee of entitlement to leave

An employer shall inform an employee who is entitled to a period of at least six days' annual leave of the date on which that leave is due to commence not less than fourteen days before the date of commencement.

§ 18.4 Payment to employees who take leave

a) An employee who has taken annual leave shall receive remuneration for the period of leave as follows:

i) an employee who is paid a time rate shall receive the remuneration that they would otherwise have earned during the period of leave.

ii) an employee who is paid a time rate and who works in an undertaking in which the hours of work vary shall receive an amount in which the employee's daily remuneration is calculated on the basis of the average remuneration which the employee has received during the year immediately preceding the leave.

iii) an employee who is paid on a basis other than a time rate shall receive an amount equal to the average remuneration to which they would have been entitled for a comparable period of time in the year immediately preceding the leave.

b) An employee shall receive pay for annual leave in accordance with the usual pay periods provided for in their contract of employment, provided that an employee taking leave of not less than seven days shall receive payment in advance; in such a case the employer shall make the payment before commencement of leave.

c) An employee is entitled at the termination of their employment to be paid a sum equal to the amount that would have been paid for any amount of annual leave that has accumulated, but which the employee has not yet taken, which shall be calculated pro rata for periods of service of less than one year.

§ 18.5 Keeping of Records

a) An employer shall keep an accurate written record of the period of annual leave granted to each employee and the remuneration paid for the period of such leave, and shall allow an employee or their representative to examine such record and documents upon request, to receive a written copy of the parts of such record and documents that pertain to the employee in question.

b) An employer shall keep the records required under this section throughout the employment of any employee, and for a period of five years following the termination of the employee's employment.

CHAPTER 19 – PERSONAL LEAVE

§ 19.1 Definition of immediate family
§ 19.2 Entitlement to paid sick leave
§ 19.3 Exercising an entitlement to sick leave
§ 19.4 Entitlement to leave to care for others
§ 19.5 Bereavement leave

§ 19.1 Definition of immediate family

For the purposes of this Part, the 'immediate family' of an employee includes the employee's:

a) Children, including any adopted children;
b) Married spouse;
c) Partner to whom the employee is not married but with whom the employee lives in a relationship like marriage;
d) Parents, including adoptive parents;
e) Grandparents; and
f) Siblings, including adopted siblings.

§ 19.2 Entitlement to paid sick leave

a) Every employee is entitled to ten days' paid sick leave for every year of continuous service with their employer.

b) On any day that an employee is on paid sick leave the employee is entitled to receive the ordinary remuneration they would have received had they worked on that day.

c) An employee's entitlement to sick leave accumulates throughout their service with an employer.

d) An employee is not entitled to be paid at the end of their service with an employer for any period of sick leave which has accumulated but not been taken, provided however that a collective agreement may modify the operation of this section.

§ 19.3 Exercising an entitlement to sick leave

a) An employee shall give an employer as much notice in advance as possible that they intend to exercise an entitlement to paid sick leave.

b) Subject to this section, wherever possible, an employee who claims a day of paid sick leave from their employer shall provide the employer with a certificate from a

medical professional that attests to the fact that the employee is or was unwell, and that for this reason the employee is or was unable to attend for work on that day.

c) If for good cause an employee is unable to provide a certificate in accordance with paragraph b), the employee shall take all reasonable steps to establish to the satisfaction of their employer that they were unwell and that for this reason they were unable to attend for work.

d) An employer shall not unreasonably refuse to accept an employee's claim to have been unwell and unable to attend for work made in accordance with paragraph c).

e) Despite the requirement in paragraph b), an employee may take up to three single days of paid sick leave in any period of twelve month's service with their employer, without the requirement to establish that they were unwell and for that reason unable to attend for work.

§ 19.4 Entitlement to leave to care for others

a) Every employee is entitled to five days' paid leave during each year of service with their employer, to provide care or support to a member of the employee's immediate family who requires care or support because of:

i) a personal illness, or personal injury, affecting the member of the employee's immediate family; or

ii) an unexpected emergency affecting the member of the employee's immediate family.

b) An employee shall give their employer as much notice as possible that they intend to exercise a right to leave under this section.

c) An employee's entitlement to paid leave under this section does not accumulate during their service with an employer.

d) An employee is not entitled to be paid at the end of their service with an employer for any period of leave provided for by this section which has not been taken during that service, provided that a collective agreement may modify the operation of this section.

e) The entitlement to leave under this section is in addition to any other leave entitlement under this Act.

f) An employer may require an employee who wishes to exercise their right to take leave under this section to provide a medical certificate issued by a medical professional.

§ 19.5 Bereavement leave

a) Every employee is entitled to take paid leave in the event that a member of their immediate family dies.

b) An employee may take up to five days' leave under this section in any year of service with their employer.

c) An employee's entitlement to paid leave under this section does not accumulate during their service with their employer.

d) An employee is not entitled to be paid at the end of their service with an employer for any period of leave provided for by this section which has not been taken during that service.

e) The entitlement to leave under this section is in addition to any other leave entitlement under this Act.

CHAPTER 20 – MATERNITY AND PATERNITY LEAVE

§ 20.1 Entitlement to paid maternity leave
§ 20.2 Proof of entitlement to maternity leave
§ 20.3 Entitlement to paternity leave
§ 20.4 Working conditions for pregnant employees and employees with children
§ 20.5 Extension of maternity leave
§ 20.6 Nursing breaks

§ 20.1 Entitlement to paid maternity leave

a) An employed woman is entitled, on each occasion that she is pregnant, to a minimum of 14 weeks of maternity leave.

b) An employed woman who takes maternity leave shall take a minimum of 6 weeks of leave after the date of confinement.

c) Any period of leave under this section to be taken before the presumed date of confinement shall be extended by the time, if any, between the presumed date of confinement and the actual date of confinement, and the period of compulsory leave to be taken after confinement shall not be reduced on that account.

d) An employed woman is entitled to receive from her employer the remuneration she would otherwise receive for her ordinary hours of work during any period of maternity leave.

§ 20.2 Proof of entitlement to maternity leave

Where requested, an employed woman shall provide her employer with a certificate from a medical professional confirming:

a) The expected date of confinement before taking maternity leave; and
b) The actual date of confinement on her return from maternity leave.

§ 20.3 Entitlement to paternity leave

a) The employed father of a child is entitled to five (5) days' leave without pay at the time of the child's birth, provided that this leave:

i) may not be taken before the mother's confinement; and
ii) shall be taken within the first month after the birth of the child, unless there are exceptional circumstances.

b) A man who has more than one wife may not take leave for the birth of children born to more than one wife, and must identify to his employer which wife will be relevant for the purposes of an entitlement under this section.

§ 20.4 Working conditions for pregnant employees and employees with children

a) Subject to this section, at the end of maternity leave an employed woman is entitled to resume her employment on the same terms and conditions of employment as before her maternity leave.

b) No employer shall require or permit a pregnant employee or an employee who is nursing a child to perform work that is hazardous to her health or to the health of her child.

c) Where an employed woman performs work that is hazardous to her health or to that of her child, her employer shall offer her suitable alternative employment, if practicable, on terms and conditions that are no less favorable than her usual terms and conditions of employment.

d) Employment continues unbroken during any period of maternity leave.

§ 20.5 Extension of maternity leave

a) If a medical practitioner certifies that due to complications arising from the pregnancy or delivery it would be in the best interests of the health of the employed women and/or her child to extend the period of maternity leave, the employer shall grant to the woman a maximum period of 1 month's unpaid extended maternity leave in addition to her maternity leave or other forms of leave to which she may be entitled.

b) A period of extended maternity leave shall run immediately before or immediately following a period of maternity leave.

§ 20.6 Nursing breaks

a) Every woman who returns to duty after delivering a child and who is breastfeeding the child shall be allowed either:

i) 2 breaks of 30 minutes in each working day; or
ii) a reduction of 60 minutes from her daily hours of work.

b) The entitlement in paragraph a):

i) continues until the child reaches the age of six months; ii) is in addition to any other rest periods to which the woman may be entitled in the course of her daily work; and iii) shall be considered as working time and remunerated accordingly.

CHAPTER 21 – PERMITTED EMPLOYMENT OF CHILDREN

§ 21.1 Object of this Part

§ 21.2 Minimum Age for Employment

§ 21.3 Light work for children under the age of 15

§ 21.4 Types of hazardous work that are prohibited for children

§ 21.5 Particular working conditions for children over the age of 15

§ 21.6 Employer to post notice of working conditions for children

§ 21.7 Further provision on working conditions for children

§ 21.1 Object of this Part

The Object of this Part is to establish a legal framework that enables children to participate in the labour market while ensuring that they do not do so to the detriment of their education, and that they are properly protected against work that would be harmful to their health, safety or moral or material welfare or development.

§ 21.2 Minimum Age for Employment

No person shall employ, or allow a child under the age of 15 years to be employed in full time employment.

§ 21.3 Light work for children under the age of 15

a) A child who is at least 13 years old may be employed to perform light work, provided that they:

> i) may only work for a maximum of two hours in a day and fourteen hours in a week; and ii) are employed in compliance with any prescribed procedures.

b) For the purposes of this Act, light work means work or any other activity that:

> i) is not likely to be harmful to a child's health or safety, moral or material welfare or development; and ii) is not such as to prejudice the child's attendance at school or their capacity to benefit from instruction.

§ 21.4 Types of hazardous work that are prohibited for children

a) The following types of work are prohibited for children:

i) work which exposes children to physical, psychological or sexual abuse;

ii) work underground, under water, at dangerous heights or in confined spaces;

iii) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

iv) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; or

v) work under particularly difficult conditions such as work for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer.

b) The Minister shall within the first twelve months of this Act coming into force make regulations:

i) specifying further the types of work that may be prohibited to children under this section; and

ii) identifying hazardous processes, temperatures, noise levels, or vibrations that are damaging to children's health.

§ 21.5 Particular working conditions for children over the age of 15

a) A child who has not yet attained the age of 16 years may not be employed for more than 7 hours in any day, or for more than 42 hours in any working week.

b) Daily hours of work for children shall include one or more rest periods totaling at least one hour, with rest periods so arranged that a child does not work for more than four consecutive hours.

c) Children shall be entitled to annual leave in accordance with Part Three of this Chapter, and in addition to a further period of annual leave equivalent to the number of working days in one (1) week.

d) An employer shall keep a register of all employed children, which shall clearly show their names, and also their ages and their dates of birth, duly certified wherever possible.

e) An employer shall keep the records required under this section throughout the employment of any child, and for a period of five years following the termination of their employment.

§ 21.6 Employer to post notice of working conditions for children

An employer who employs children in accordance with this Part shall post a notice at the workplace setting out:

a) The special conditions of work applicable to children set out in section § 21.5; and

b) Any other special conditions that are prescribed, and which by regulation are required to be notified.

§ 21.7 Further provision on working conditions for children

The Minister may make regulations:

a) Establishing a system by which an employer shall obtain a permit from the Ministry to engage a child to perform light work;

b) Establishing a system by which an employer might obtain a permit to engage a child younger than 13 for such purposes as participation in artistic performances;

c) Stipulating times of day during which children may work or shall not work, as the case may be; and

d) Making further provision for rest breaks, meal breaks, and other conditions of work for children.

CHAPTER 22 – SOCIAL WELFARE

§ 22.1 Scope
§ 22.2 Employers to pay pensions to employees
§ 22.3 Calculation and payment of retirement pension
§ 22.4 Definition of cumulative service
§ 22.5 Dismissal of employee to avoid payment of pension
§ 22.6 Inalienability of right to payment of pension
§ 22.7 Enforcement of payment in default

§ 22.1 Scope

This Chapter does not apply to an employer who is or who becomes:

a) Required to fulfill a comparable obligation under a pension scheme administered by the National Social Security and Welfare Corporation (NASSCORP) under the National Social Security and Welfare Law as amended; and

b) Registered with NASSCORP; and

c) Compliant with their obligations under regulations relating to a pension scheme administered by NASSCORP.

§ 22.2 Employers to pay pensions to employees

a) Subject to this section, an employer shall pay a retirement pension to an employee that retires from employment:

i) at the age of 60 if the employee has completed at least fifteen years of continuous service with the employer; or

ii) at any age if the employee has completed at least twenty-five years of continuous service with the employer.

§ 22.3 Calculation and payment of retirement pension

A retirement pension payable under this Part shall be:

a) At least forty per cent of the average monthly earnings of the employee over the last five years of employment; and

b) Paid in equal monthly installments until the death of the employee.

§ 22.4 Definition of cumulative service

In reckoning the time of cumulative service for the purposes of this Part, account shall be taken of service prior to the effective date of this Chapter.

§ 22.5 Dismissal of employee to avoid payment of pension

An employer shall not terminate an employee's employment in order to avoid payment of a retirement pension.

§ 22.6 Inalienability of right to payment of pension

A worker's right to receive payments of a retirement pension:

a) Cannot be assigned, transferred, hypothecated, encumbered, commuted, or anticipated; and
b) Is exempt from execution, garnishment, and other process for the collection of indebtedness, provided that an employer may deduct sums of money lawfully owed to the employer by the employee.

§ 22.7 Enforcement of payment in default

Compensation due under provisions of this Part shall be a lien against the assets of the employer, to be subordinate, however, to claims for unpaid wages, workmen's compensation payments, and prior recorded liens.

CHAPTER 23 – SCHOOLS FOR EMPLOYEES' CHILDREN LIVING IN CAMPS

§ 23.1 Definitions
§ 23.2 Operators of qualified sites to construct and equip schools
§ 23.3 Operators of larger sites to construct and equip additional schools
§ 23.4 Sharing of school construction
§ 23.5 Approval of plans
§ 23.6 Counting of children
§ 23.7 Maintenance of schools
§ 23.8 Penalties

§ 23.1 Definitions

As used in this Chapter,

a) site includes all land used by an operator for:

i) the mining and processing of minerals; ii) the production of crops or other agricultural products, including but not limited to rubber, bananas, cocoa, rice, and lumber; or iii) both; and regularly employing hired workers for such purpose, who are required to live at the site, and away from their habitual residences.

b) operator includes any individual, partnership, firm, corporation, or other legal entity who as landowner or as lessee is directly or indirectly responsible for and derives profit from the operation of a camp.

c) children include all persons residing on a site who have not yet attained the age of fifteen years, and who are the children of an employee.

d) school children includes all persons residing on a site who have attained the age of six years, but who have not yet attained the age of fifteen years and who are the children of an employee.

e) qualified site includes a site:

i) upon which there are residing at least twenty children; and
ii) within a radius of three miles from the centre of which there is no public elementary school.

§ 23.2 Operators of qualified sites to construct and equip schools

The operator of each qualified site shall either

a) Construct and equip one or more public elementary schools thereon in accordance with plans approved by the Ministry of Education and in accordance with section § 23.3 of this Act; or

b) Provide bus service for all school children to and from the nearest public elementary school during such periods as such school shall be in session; provided, however, that this alternative shall not be available to any operator of any site beyond a ten-mile radius of which there shall be no public elementary school.

§ 23.3 Operators of larger sites to construct and equip additional schools

Where a qualified site is of such geographical size that by the construction of one public elementary school only by the operator of said site, twenty or more school children are not within three miles of said school, he shall construct and equip an additional school, or he shall provide bus service as provided in section § 23.2 of this Act.

§ 23.4 Sharing of school construction

a) The operators of two or more qualified sites may construct one public elementary school in accordance with section § 23.2 of this Act where the children on each such site shall be no further than three miles from the site of the proposed school.

b) The operators of said site may share the cost of said construction in a manner to be agreed upon by said operators or, in the absence of such agreement, in proportion to the number of children on each said site.

§ 23.5 Approval of plans

No plans for public elementary schools to be constructed and to be equipped by operators of qualified sites in accordance with section § 23.2 of this Act shall be approved unless the same shall provide for heating, ventilating, lighting, sanitation and health, and fire and accident protection, adequate to maintain healthful, safe, and comfortable conditions therein.

§ 23.6 Counting of children

The Minister of Education shall see that the number of children on each site is ascertained annually, or as often as shall be deemed necessary.

§ 23.7 Maintenance of schools

Funds for the staffing and maintenance of public elementary schools to be constructed and to be equipped under the provisions of this Chapter shall be provided by the Government of the Republic of Liberia; however, the Minister of Education may permit the operator to staff and maintain the school or schools for such period of time as may be agreed upon by the operator and the Minister.

§ 23.8 Penalties

a) The failure by the operator of any qualified site to comply with the requirements of section § 23.2 of this Act within a year of the effective date of this Chapter or within a year of the date on which the operator was notified by the Minister of Education that the Government would staff and maintain the school shall be deemed to constitute a consent to the building and to the equipping of a public elementary school or schools by the Minister of Education at the expense of such operator, and such school or schools shall be so built and shall be so equipped as soon as practicable after the said Ministry shall have determined in such manner as its regulations shall require that the necessary consent shall be deemed to have been given. Each determination by the said Ministry pursuant hereto shall be upon notice to the operator affected thereby and shall be made only after such operator shall have had an opportunity to be heard. Each determination hereunder shall become conclusive and binding upon the operator concerned thirty days after publication in the Official Gazette of the Republic of Liberia unless prior to the expiration of such thirty days the operator shall have appealed the determination to the Labour Court of the county concerned or, in the event that there is no Labour Court in the county, to the Circuit Court.

b) Interest at six percent on the cost of the construction and of the equipping of said school or schools by said Ministry shall begin to run against the said operator from the time that the said school or schools should have been constructed in accordance with the provisions of paragraph a).

PART VI: OCCUPATIONAL SAFETY AND HEALTH

CHAPTER 24 – GENERAL

§ 24.1 Objects
§ 24.2 Definitions

§ 24.1 Objects

The object of this Part is to establish a legal framework:

a) To secure the safety, health and welfare of employees and other persons at work;

b) To eliminate at their source, so far as is reasonably practicable, risks to the safety, health and welfare of employees and other persons at work;

c) To ensure that the safety and health of members of the public are not exposed to risks arising from work or workplaces;

d) To provide for the involvement of workers, employers, and organizations representing those persons, in the formulation and implementation of safety, health and welfare standards; and

e) To develop and promote a national preventative safety and health culture, meaning a culture:

i) in which the right to a safe and healthy working environment is respected at all levels;

ii) where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties; and

iii) where the principle of prevention is accorded the highest priority.

§ 24.2 Definitions

a) In this Part, unless the context otherwise requires:

i) chemicals means chemical elements and compounds, and mixtures thereof, ii)whether natural or synthetic;

ii) disease includes a physical or mental ailment, disorder, defect or morbid condition, whether of sudden or gradual development and whether contracted before or after the commencement of this Act;

iii) hazard means the inherent potential to cause injury or damage to people's health;

iv)injury in relation to worker, means a physical or mental injury arising out of or in the course of their work and includes:

(1) a disease; and
(2) the aggravation, acceleration, exacerbation, recurrence or deterioration of an existing injury or disease;

v) plant includes:

(1) any machinery, equipment, appliance, implement or tool; (2) any component, fitting or accessory used in conjunction with any machinery, equipment, appliance, implement or tool;
(3) anything fitted, connected or related to any of those things; and
(4) steam boilers, pressure vessels, hoists, lifts, cranes, lifting equipment, handling devices, amusement rides or scaffolding;

vi)premises includes any building or structure, or part of it, whether above or below the surface of the land or water, or any vehicle, truck, vessel or aircraft;

vii) risk means a combination of the likelihood of an occurrence of a hazardous event and the severity of injury or damage to the health of people caused by this event;

viii) self-employed person means an individual who works for gain or reward but who is not an employee;

iv) substance means a natural or artificial substance, whether in solid, or in the form of liquid, in the form of a gas or any combination thereof and it includes a chemical;

x) substance for use at work means any substance intended, or supplied for

use, whether exclusively or not, by persons at work; and

xi) supply in relation to any plant or substance, means supply or re-supply of the plant or substance by way of sale or financing or credit arrangement whether as principal or agent for another.

b) For the purposes of this Part, in assessing what is (or was at a particular time) reasonably practicable in relation to ensuring safety and health consideration shall be given to:

i) the likelihood of a hazard or risk concerned eventuating;

ii) the degree of harm that would result if a hazard or risk eventuated;

iii) what the person concerned knows or knew, or ought reasonably to know or have known, about a hazard or risk and about any ways of eliminating or reducing that hazard or risk;

iv)the availability and suitability of ways to eliminate or reduce a hazard or risk; and

v) the cost of eliminating or reducing a hazard or risk.

CHAPTER 25 – GENERAL DUTIES

§ 25.1 General duties of employers
§ 25.2 Duty of employer to formulate safety and health policy
§ 25.3 Duties of employers and self-employed persons to non-workers
§ 25.4 Duties of persons in control of workplaces
§ 25.5 Duties of designers, manufactures, importers, suppliers, and installers
§ 25.6 Duties of workers
§ 25.7 Duty applicable to all persons

§ 25.1 General duties of employers

a) Every employer shall ensure so far as is reasonably practicable the safety and health at work of all workers they have engaged.

b) Without limiting the scope of the preceding provisions, an employer contravenes their obligation under this section by failing:

i) to provide and maintain plant and systems of work that are safe and without **risks** to health;

ii) to make arrangements for ensuring safety and absence of risks to health in connection with the use or operation, handling, storage or transport of plant and substances;

iii) to provide, in appropriate languages, such information, instruction, training and supervision as may be necessary to ensure the safety and health of workers they have engaged and to take such steps as are necessary to make available in connection with the use at work of any plant or substance adequate information in appropriate languages:

(1) about the use for which the plant is designed and about any conditions necessary to ensure that, when put to that use, the plant will be safe and without risks to health; or

(2) about any research, or the results of any relevant tests which have been carried out, on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health when properly used;

iv) as regards any workplace under the employer's control to maintain it in a condition that is safe and without risks to health; or

v)as regards any workplace under the employer's control to provide and maintain means of access to and egress from it that are safe and without any such risks; and

vi) to provide and maintain a working environment for workers they have engaged that is safe and without risks to health, and adequate as regards facilities for their welfare at work.

c) For the purposes of this section, any plant or substance is not to be regarded as properly used by a person where it is used without regard to any relevant information or advice relating to its use, which has been made available by the person's employer.

§ 25.2 Duty of employer to formulate safety and health policy

a) It shall be the duty of every employer or self-employed person to develop, as appropriate in consultation with workers of the employer, and with such other persons as the employer considers necessary, a policy relating to occupational safety and health.

b) The policy shall enable effective cooperation between the employer and the workers in promoting and developing measures to ensure the workers' safety and health and the organization and arrangements for the time being in force for carrying out that policy.

c) The policy shall provide adequate mechanisms for reviewing the effectiveness of the measures or the redesigning of the said policy, whenever appropriate.

§ 25.3 Duties of employers and self-employed persons to non-workers

a) Every employer or self-employed person shall ensure so far as is reasonably practicable that persons other than workers they have engaged are not exposed to risks to their safety or health arising from the conduct of the undertaking of the employer or self-employed person.

b) Every employer or self-employed person shall give to persons other than workers they have engaged, who may be affected by the manner in which they conduct their work, such information as may be prescribed, on such aspects as might affect their safety or health.

§ 25.4 Duties of persons in control of workplaces

a) Each person who has, to any extent, control of:

i) a workplace, or the means of access thereto or egress therefrom; or

ii) any plant or substance which has been provided for the use or operation of persons at work shall ensure so far as is reasonably practicable that the premises, the means of access thereto or egress therefrom or the plant or substance, as the case may be, are or is safe and without risks to health.

b) Without limiting the preceding provisions, the duty imposed by this section is also imposed on any person who has, by virtue of any contract or lease, an obligation of any extent in relation to:

i) the maintenance or repair of any workplace or any means of access thereto or egress therefrom; or

ii) the safety of, or the absence of risks to health arising from, any plant or substance which has been provided for the use or operation of persons at work.

c) A reference in this section to a person having control of any thing is a reference to a person having control of the thing in connection with the carrying on by them of a trade, business or other undertaking (whether for profit or not).

§ 25.5 Duties of designers, manufactures, importers, suppliers, and installers

a) A person who designs, manufactures, imports or supplies any plant or substance for use at a workplace shall:

i) ensure, so far as is reasonably practicable, that the plant or substance is safe and without risks to health when properly used;

ii) carry out or arrange for the carrying out of such research, testing and examination as may be necessary for the purpose of the discovery and the elimination or minimization of any risks to safety or health to which the plant or substance may give rise; and

iii) take such steps as are necessary to make available in connection with the use of the plant or substance at work adequate information

(1) about the use for which the plant is designed and about any conditions necessary to ensure that, when put to that use, the plant will be safe and without risks to health; or

(2) about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health when properly used.

b) A person who erects or installs any plant for use at work in any workplace where that plant is to be used by persons at work shall ensure so far as is reasonably practicable that nothing about the way in which it is erected or installed makes it unsafe or a risk to health when properly used.

c) Nothing in this section shall be taken to require a person to repeat any research, testing or examination which has been carried out otherwise than by them or at their instance, in so far as it is reasonable for them to rely on the results of that research for the purposes of this section.

d) For the purposes of this section, any plant or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was manufactured or supplied.

e) Without limiting the generality of this section a person who manufactures or imports or supplies a chemical for use in a workplace shall have and shall supply together with that chemical a Material Safety Data Sheet or a Chemical Safety Data Sheet.

§ 25.6 Duties of workers

Every worker shall, at all times while at work, take all reasonable care

a) Not to take any action, or make any omission, that creates a risk, or increases an existing risk, to the safety or health of any worker including themselves or of other persons (whether workers or not) at their workplace; and

b) In respect of any duty or obligation imposed on the workers' employer, or on any other person by or under this Act, to cooperate with the employer, or that other person, to the extent necessary to enable the employer or other person to fulfill that duty or obligation; and

c) To use equipment, in accordance with any instructions given by the worker's employer consistent with its safe and proper use, that is

i) supplied to the worker by the employer; and

ii) necessary to protect the safety and health of the worker, or of other persons (whether workers or not) at the worker's workplace.

§ 25.7 Duty applicable to all persons

A person shall not intentionally or recklessly interfere with or misuse anything provided or done in the interests of safety and health in pursuance of this Act or regulations made thereunder.

CHAPTER 26 – WORKPLACE ARRANGEMENTS

§ 26.1 Safety and health officer
§ 26.2 Establishment of safety and health committee at place of work
§ 26.3 Functions of safety and health committee
§ 26.4 Employer duty to consult with workers
§ 26.5 Protection of workers against disciplinary measures
§ 26.6 Imminent and serious danger
§ 26.7 Duty not to charge workers for things done or provided

§ 26.1 Safety and health officer

a) This section shall apply only to:

i) such categories of industries; and ii) such employers employing a specified number of workers as the Minister may specify by order published in the Official Gazette of the Republic of Liberia.

b) An occupier of a workplace to which this section applies shall employ a competent person to act as a Safety and Health Officer at the place of work.

c) The Safety and Health Officer shall be employed exclusively for the purpose of ensuring the due observance at the place of work of the provisions of this Act and any regulations made under it and the promotion of safe conduct of work at the place of work.

d) The Ministry may permit an occupier to employ a Safety and Health Officer on a part-time basis when:

i) competent persons are not available;

ii) the occupier assigns the functions of the Safety and Health Officer to a person at a sufficient level of seniority in the enterprise who is already employed at the workplace, who shall be required to devote twenty hours a week to such functions as the Safety and Health Officer of such workplace;

iii) the occupier maintains a record of the time so spent; and

iv) the person so appointed has been trained and certified as may be prescribed.

e) The Safety and Health Officer shall possess such qualifications or have received such training as may be prescribed.

f) The Safety and Health Officer shall consult with the safety and health committee in the workplace.

§ 26.2 Establishment of safety and health committee at place of work

a) Every employer shall establish a safety and health committee at the place of work in accordance with this section if there are twenty or more workers engaged by the employer at the place of work.

b) A safety and health committee shall be composed of equal numbers of representatives of workers and their employer.

c) The election or appointment of persons to the committee, the powers of the members of the committee and any other matter relating to the establishment or procedure of the committee shall be as prescribed.

d) Every employer shall consult the safety and health committee with a view to the making and maintenance of arrangements which will enable the employer and all workers engaged by the employer to cooperate effectively in promoting and developing measures to ensure the safety and health at the place of work of the workers, and in checking the effectiveness of such measures.

e) A person is not eligible for election or appointment as a member of a safety and health committee for a workplace unless the person is a worker who works at the workplace.

f) The person or persons nominated by the employer shall be, or shall include, a person or persons having the authority of the employer to give effect to such matters as the committee might reasonably resolve in connection with the safety and health of persons at the workplace.

§ 26.3 Functions of safety and health committee

A safety and health committee established at a place of work pursuant to this Chapter shall have the following functions, duties and powers:

a) To facilitate cooperation between the employer and workers engaged by the employer in relation to safety and health at work;

b) To assist in the formulation, review and dissemination (in such languages as are appropriate) to workers of the safety and health practices, procedures and policies that are to be followed at the workplace;

c) To keep under review the measures taken to ensure the safety and health of persons at the place of work;

d) To investigate any matter at the place of work:

i) which a member of the committee or a worker engaged thereat considers is not safe or is a risk to health; and

ii) which has been brought to the attention of the employer;

e) To attempt to resolve any matter referred to in paragraph (d) and, if it is unable to do so, shall request a Labour Inspector to undertake an inspection of the place of work for that purpose; and

f) Such other functions as may be prescribed.

§ 26.4 Employer duty to consult with workers

a) When doing any of the following things, an employer shall so far as is reasonably practicable consult with workers engaged by the employer who are or are likely to be directly affected by the employer doing that thing:

i) identifying or assessing hazards or risks to safety or health at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;

ii) making decisions about the measures to be taken to control risks to safety or health at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;

iii) making decisions about the adequacy of facilities for the welfare or employees of the employer;

iv) making decisions about the procedures for any of the following:

(1) resolving safety or health issues at a workplace under the employer's management and control or arising from the conduct of the undertaking of the employer;
(2) consulting with workers engaged by the employer in accordance with this Part;
(3) monitoring the health of workers engaged by the employer and the conditions at any workplace under the employer's management and control; (4) providing information and training to workers engaged by the employer;

v) determining the membership of any safety and health committee;

vi) proposing changes, that may affect the safety or health of workers engaged by the employer, to any of the following:

(1) a workplace under the employer's management and control;
(2) the plant, substances or other things used at such a workplace;
(3) the conduct of the work performed at such a workplace; or
(4) any other things prescribed by the regulations for the purposes of this subsection.

b) An employer who is required by virtue of this provision to consult with workers that the employer has engaged shall do so by:

i) sharing with the workers information about the matter on which the employer is required to consult; and

ii) taking into account those views.

c) In consulting with workers under this provision an employer shall involve and consult with any workplace union representative elected to represent the workers who are or are likely to be directly affected by the employer doing the thing contemplated in paragraph a), and shall do so with or without the involvement of the workers directly.

d) A workplace union representative consulted under this section may consult with a registered trade union that has members engaged at the workplace, provided however that they may not disclose commercial secrets.

e) If the employer and the workers engaged by that employer have agreed to procedures for undertaking consultations, the consultation shall be undertaken in accordance with those procedures.

§ 26.5 Protection of workers against disciplinary measures

a) An employer shall not dismiss a worker or act in any way detrimental to a worker in the worker's employment with the employer for the reason only that the worker:

i) assists or has assisted or gives or has given information in relation to safety and health to a labour inspector;

ii) makes or has made, in their considered opinion, a reasonable complaint in relation to safety and health to the employer or to any labour inspector;

iii) ceases work under section § 26.6, regardless of whether or not a labour inspector determines that there was imminent and serious danger to safety or health;

iv) is a member of a safety and health committee established pursuant to this Chapter; or

v) has exercised their functions as a member of a safety and health committee.

b) No registered trade union shall take any action against any of its members who, being a worker at a place of work:

i) makes a complaint about a matter which they consider is not safe or is a risk to health;

ii) is a member of a safety and health committee established pursuant to this Chapter; or

iii) exercises any function as a member of a safety and health committee.

§ 26.6 Imminent and serious danger

a) Where a worker has reasonable cause to believe that there is imminent and serious danger to safety or health unless the worker ceases to perform particular work, the worker shall:

i) inform a person supervising the worker or workers in the performance of the work about the danger to safety or health; or

ii) cease work in a safe manner in the event that the supervisor cannot be contacted immediately and, as soon as practicable, inform a supervisor that the work has ceased.

b) Where a supervisor is informed under paragraph (a) of this section of a danger to the safety or health of one or more of the workers, the supervisor shall take such action as they consider appropriate to remove that danger, and any such action may include directing the worker or workers to cease, in a safe manner, to perform the work.

c) Where there is disagreement between a worker and the supervisor as to whether there was imminent and serious danger or the action taken was sufficient to remedy the danger, the disagreement may be referred by either party to a labour inspector for investigation.

d) A labour inspector as soon as possible after a request is made shall carry out an investigation of the work that is the subject of the disagreement, and the labour inspector conducting the investigation shall make such decision, and exercise such powers under this Act, as the labour inspector considers necessary, in relation to the work.

e) During a period in which a worker has ceased work in accordance with this section, their employer may assign them to alternative work in accordance with the terms of the worker's engagement.

§ 26.7 Duty not to charge workers for things done or provided

No employer shall levy or permit to be levied on any worker under their employment any fee or charge in respect of anything done or provided in pursuance of this Part or any regulation made thereunder.

CHAPTER 27 – REPORTING AND NOTIFICATION

§ 27.1 Application of this Chapter
§ 27.2 Duty to notify of incidents
§ 27.3 Notification of certain workplaces and other matters

§ 27.1 Application of this Chapter

This Chapter applies to an incident that results in:

a) The death of a person; or
b) A person requiring medical treatment within 48 hours of exposure to a substance; or
c) A person requiring immediate treatment as an in-patient in a hospital; or
d) A person requiring immediate medical treatment for:

i) the amputation of any part of his or her body; or
ii) a serious head injury; or iii) a serious eye injury; or iv) the separation of his or her skin from an underlying tissue; or
v) any other injury to a person or other consequence prescribed by the regulations.

e) This Chapter also applies to an incident that exposes a person in the immediate vicinity to an immediate risk to the person's safety or health through:

i) the collapse, overturning, failure or malfunction of, or damage to, any plant that the regulations prescribe shall not be used unless the plant is licensed or registered; or

ii) the collapse or failure of an excavation or of any shoring supporting an excavation; or
iii) the collapse or partial collapse of all or part of a building or structure; or iv) an implosion, explosion or fire; or
v) the escape, spillage or leakage of any substance including dangerous goods; or vi) the fall or release from a height of any plant, substance or object; or vii)in relation to a mine:

(1) the overturning or collapse of any plant; or
(2) the inrush of water, mud or gas; or
(3) the interruption of the main system of ventilation; or (4) any other event or circumstance prescribed by the regulations.

f) In this section mine means a workplace at which:

i) work is being done underground; or ii) work is performed that consists of any activity falling within the scope of the Natural Resources Law or the Mineral and Mining Law; or iii) exploration in the form of

(1) underground work of any kind; or

(2) drilling from the surface for coal bed methane is being done.

§ 27.2 Duty to notify of incidents

a) An employer or self-employed person shall notify the Ministry immediately after becoming aware that an incident has occurred at a workplace under the management and control of the employer or self-employed person.

b) Within 48 hours after being required to notify the Ministry, the employer or self-employed person shall also give the Ministry a written record of the incident, in the form approved in writing by the Ministry.

c) The employer or self-employed person shall keep a copy of the record for at least 5 years and make a copy of the record available for inspection by

i) a labour inspector; or

ii) a person, or a representative of a person, injured in the incident or whose safety or health was exposed to immediate risk by the incident; or

iii) a representative of a person whose death was caused by the incident; or

iv) in the case of an employer, the members of a safety and health committee (if any) established at the enterprise.

§ 27.3 Notification of certain workplaces and other matters

a) Where there are twenty or more persons employed at a workplace, being a workplace in respect of which notice is required to be given by the regulations, the employer at the workplace or such other person as is prescribed shall give notice each year of the prescribed particulars of the workplace, and shall give the notice in such time and in such manner as may be prescribed.

b) Every registered medical professional or medical officer attending to, or called in to visit, a patient whom the medical professional believes to be suffering from

occupational poisoning, or an occupational disease prescribed under this Act shall report the matter to the Ministry.

CHAPTER 28 – ENFORCEMENT

§ 28.1 Power to issue improvement notices
§ 28.2 Power to issue prohibition notice
§ 28.3 Review of improvement and prohibition notices
§ 28.4 Guidelines on enforcement
§ 28.5 Safeguards against further personal liability
§ 28.6 Protection against civil and criminal proceedings
§ 28.7 Use of codes of good practice in the course of enforcement
§ 28.1 Power to issue improvement notices

§ 28.1 Power to issue improvement notices

a) If a labour inspector reasonably believes that a person

i) is contravening a provision of this Chapter; or

ii) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated

the inspector may issue to the person a written improvement notice requiring the person to stop and or to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention.

b) An improvement notice shall:

i) state the basis for the labour inspector's belief on which the issue of the notice is based;

ii) specify the provision that the labour inspector considers is being or has been contravened or of which a contravention is threatened;

iii) specify a date by which the person is required to remedy the contravention, that the labour inspector considers is reasonable having regard to the nature and severity of the contravention, and the nature of the person's business;

iv) state how, by what date and to whom the person is entitled to appeal against the issue of the notice; and

v) set out the procedures under this Act to enforce compliance with the notice.

§ 28.2 Power to issue prohibition notice

a) If a labour inspector reasonably believes that:

i) an activity is occurring at a workplace that involves or will involve an immediate risk to the safety or health of a person; or

ii) an activity may occur at a workplace that, if it occurs, will involve an immediate risk to the safety or health of a person, the labour inspector may issue to a person who has or appears to have control over the activity a prohibition notice prohibiting the carrying on of the activity, or the carrying on of the activity in a specified way, until a labour inspector has certified in writing that the matters that give or will give rise to the risk have been remedied.

b) Except as otherwise provided in this section a prohibition notice shall be in writing and shall:

i) state the basis for the labour inspector's belief on which the issue of the notice is based;

ii) specify the activity which the inspector believes involves or will involve the risk and the matters which give or will give rise to the risk;

iii) if the inspector believes that the activity involves a contravention or likely contravention of a provision of this Act or the Regulations, specify that provision and state the basis for that belief;

iv) state how, by what date and to whom the person is entitled to appeal against the issue of the notice; and

v) set out the procedures under this Act to enforce compliance with the notice.

c) Where reasonably necessary, a labour inspector may issue a prohibition notice verbally, provided that such a notice shall not be valid for any longer than a period of 24 hours from the time when it is issued.

§ 28.3 Review of improvement and prohibition notices

a) A person to whom an improvement or prohibition notice has been issued may appeal against that notice by application to the Minister within 5 days of receiving the notice, or at a later time for good cause shown if the Minister so allows.

b) The Minister may affirm, cancel or vary an improvement or prohibition notice, and otherwise grant such relief as is necessary to do justice in the case.

c) An application to the Minister to review a prohibition notice does not operate as a stay of the notice unless the Minister so determines.

d) The Minister shall determine an application for a stay of a prohibition notice within 48 hours, and if the Minister does not do so the prohibition notice is taken to be stayed.

§ 28.4 Guidelines on enforcement

a) The Minister shall publish guidelines for enforcement under this Chapter in the Official Gazette of the Republic of Liberia within six months of this Act coming force.

b) A labour inspector may take steps to enforce the requirements of a notice issued under this Chapter at any time, without regard to whether the Minister has published guidelines for enforcement.

§ 28.5 Safeguards against further personal liability

Subject to this Act and any regulations made under it, no person shall incur any personal liability for any loss or damage caused by any act or omission by them in carrying out their duties under this Act or any regulation made under it, unless the loss or damage was occasioned intentionally or through recklessness or gross negligence.

§ 28.6 Protection against civil and criminal proceedings

No action or proceeding, civil or criminal shall lie or be continued against any labour inspector or any other body established by or under this Chapter, for anything done or omitted in good faith in the exercise or purported exercise of a function of a labour inspector or body under this Chapter.

§ 28.7 Use of codes of good practice in the course of enforcement

a) Where in a proceeding to enforce the requirements of a notice under this Chapter it is alleged that a person contravened or failed to comply with a provision of this Act in relation to which an approved code of good practice was in force at the time of the alleged contravention or failure, the approved code of good practice shall be admissibly in evidence in those proceedings.

b) An approved code of good practice shall be admitted as evidence if:

i) a provision of the approved code of good practice is relevant to the matter; and

ii) the person failed at a material time to observe that provision of the approved code of good practice.

c) If–

i) a code of good practice makes provision for or with respect to a duty or obligation imposed by this Act or the regulations; and

ii) a person complies with the code of good practice to the extent that it makes that provision the person is, for the purposes of this Act and the regulations, taken to have complied with this Act or the regulations in relation to that duty or obligation.

CHAPTER 29 – MISCELLANEOUS

§ 29.1 Minister may promulgate approved codes of practice
§ 29.2 National Occupational Safety and Health Programme
§ 29.3 Regulations

§ 29.1 Minister may promulgate approved codes of practice

a) For the purpose of providing practical guidance on any matter relating to this Part, the Minister may, on the recommendation of the National Tripartite Council, by notice in the Official Gazette of the Republic of Liberia, approve a code of good practice.

b) A code of good practice made under this Chapter may consist of a code, standard, rule, specification or provision relating to matters in this Act formulated, prepared or recommended by the National Tripartite Council, which may liaise with the labour inspectors for these purposes, and may apply, incorporate or refer to a document formulated or published by a body or authority or as amended, formulated or published from time to time.

c) A notice publishing a code of good practice in the Official Gazette of the Republic of Liberia shall indicate where a copy of the approved code of good practice to which it relates, and all documents incorporated or referred to in the code, may be inspected by members of the public without charge, and the times during which it may be inspected, and the Ministry shall make the code and those documents available for that purpose accordingly.

d) Any code of good practice shall take into account any current national or international code, standard or rule in its development.

§ 29.2 National Occupational Safety and Health Programme

a) The Minister shall, based on the recommendation of the National Tripartite Council, formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health. The national programme shall:

i) promote the development of a national preventative safety and health culture;

ii) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;

iii) be formulated and reviewed on the basis of analysis of the national situation regarding occupational safety and health, including analysis of the national system for occupational safety and health;

iv) include objectives, targets and indicators of progress; and

v) be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.

§ 29.3 Regulations

a) The Minister may make regulations for or with respect to the safety, health and welfare of persons at work in order to achieve the objectives of this Chapter, and of this Act.

b) Without limiting the scope of the preceding provisions, such regulations may:

i) prohibit the manufacture, supply or use of any plant;

ii) prohibit the manufacture, supply, storage, transport or use of any substance;

iii) prohibit the carrying on of any process or the carrying out of any operation;

iv) prescribe the requirements with respect to the design, construction, guarding, sitting, installation, commissioning, examination, repair, maintenance, alteration, adjustment, dismantling, testing, making or inspection of any plant;

v) prescribe the requirements with respect to the examination, testing, analysis, labeling, or making of any substance;

vi) prescribe the times and the manner in which employers or other specified persons are required to examine, test, analyze or label hazardous substances or mark any substance;

vii) prescribe the requirements to abstain from eating, drinking or smoking in any circumstances involving risk of absorption of any substance or risk of injury or poisoning arising out of the use of any substance;

viii) prescribe the requirements with respect to the instruction, training and supervision of persons at work;

ix) prescribe the procedure for employers to notify any accident, dangerous occurrence, occupational poisoning or occupational disease, and any information that an employer should record of such event;

x) prescribe the arrangements to be made with respect to the taking of any action or precaution to avoid, or in the event of, any accident or dangerous occurrence;

xi) prohibit or require the taking of any action in the event of any accident or dangerous occurrence;

xii) prescribe the requirements with respect to the provision and use in specified circumstances of protective clothing or equipment and rescue equipment;

xiii) prescribe the standards in relation to the use of, including standards of exposure to, any physical, biological, chemical or psychological hazard;

xiv) secure the provision of adequate welfare facilities by employers for persons at work;

xv) require employers to keep and preserve records and other documents;

xvi) prescribe the composition, powers, functions and procedures of safety and health committees; regulate the election or appointment of members of the committees and other related matters; and the training required of committee members, including employer obligations to provide training;

xvii) prescribe the fees payable or chargeable for doing any or providing any service for the purposes of this Act or any regulation made thereunder;

xviii) prescribe the requirements for engaging a medical officer;

xix) prescribe the requirements for employing a safety and health officer, the training required of a safety and health officer and the procedures for registration;

xx) require the certification of operators of prescribed plant or machinery;

xxi) require the registration of a workplace or any plant or substance and specify the conditions applying to registration and licenses (including conditions by prescribed persons);

xxii) require the licensing of a person carrying out processes or activities under this Act;

xxiii) prescribe forms for the purposes of this Act;

xxiv) prescribe any other matter which may appear to the Ministry to be expedient or necessary for the better carrying out of this Act.

c) The regulations may incorporate, adopt or adapt by reference the provisions of any document, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether wholly or partly, or as amended by the regulations; or as formulated, issued, prescribed or published at the time the regulations are made or at any time before then; or as amended after the making of the regulations, but only where the Ministry has published in the Official Gazette of the Republic of Liberia a notice that the particular amendment is to be incorporated in the regulations.

d) The regulations may provide that a prescribed employer or a member of a prescribed class of employers shall:

i) monitor the health of their workers;

ii) keep information and records relating to the safety and health of their workers; iii) employ or engage a person who, being suitably qualified in relation to occupational safety and health is able to provide advice to the employer in relation to the safety and health of the employer's workers;

iv) monitor conditions likely to affect the safety and health of their workers at a workplace under his or her control and management;

v) or perform any combination of those mentioned above, and the employer shall, accordingly, do that thing or those things.

e) The regulations may specify reasonable arrangements to be made for the medical surveillance and medical examination, not including medical treatment of a preventive character, of the persons or any class of persons employed in any industry or class or description of industries, where:

i) cases of illness have occurred which the Ministry has reason to believe may be due to the nature of the process or other conditions of work;

ii). by reason of changes in any process or in the substances used in any process or, by reason of the introduction of any new process or new substance for use in a process, there may be risk of injury to the health of persons employed in the process;

iii) persons below the age of eighteen years are or are about to be employed in work which may cause risk of injury to their health; or

iv) there may be risk of injury to the safety or health of persons, including any risk to the reproductive health of those persons or to the safety or health of the children of those persons employed in any of the following occupations:

(1) any occupation involving the use or handling of, or exposure to silica dust, asbestos dust, raw cotton dust, or to the fumes, dust or vapor of lead, mercury, arsenic, phosphorus, carbon disulphide, benzene, organic-phosphate, oxides of nitrous, cadmium, beryllium or pesticides;

(2) any occupation involving the use or handling of, or exposure to, tar, pitch, bitumen, mineral oil including paraffin, chromic acid, chromate or bichromate of ammonium, potassium, zinc or sodium;

(3) any occupation involving exposure to x-rays, ionizing particles, radium or other radioactive substances or other forms of radiant energy; or (4) any occupation or process carried on in compressed air.

f) A provision of a regulation may:

i) apply generally or be limited in its application by reference to specified exceptions or factors;

ii) apply differently according to different factors of a specified kind;

iii) authorize any matter or thing to be from time to time determined, applied or regulated by any specified person or body;

iv) exempt any person or class of persons, either absolutely or subject to conditions, from any provision of the regulations.

PART VII: WORKERS' COMPENSATION

CHAPTER 30– GENERAL

§ 30.1 Object
§ 30.2 Scope
§ 30.3 Definition

§ 30.1 Object

It is the policy of the Government of Liberia that:

(a) Every person in this Republic who works for a living shall be entitled to maintain his or her independence and self-respect through self-support even when physically impaired by injury or disease;

(b) An employee who suffers injury or disease as a consequence of their employment shall be entitled to compensation during his or her disability and to the extent of this disability as a right arising out of his or her employment; and

(c) The rehabilitation of an employee who suffers an occupational injury or disease shall be the joint obligation of his or her employer, the employee him or herself; and the government, according to the capacity of each.

§ 30.2 Scope

a) This Chapter shall only apply to the extent that employees ARE NOT covered by an employee injury scheme administered by the National Social Security and Welfare Corporation (NASSCORP) under the National Social Security and Welfare Law as amended.

b) Notwithstanding the above, where an employee suffers any injury at work the employer shall promptly provide for any injured employee such reasonable medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for such period as the nature of the injury or the process of recovery may require.

c) Nothing in the preceding paragraph shall limit the right of an employer to recover the cost of such treatment or service from NASSCORP under the terms applicable to such employee injury scheme.

§ 30.3 Definition

Except as otherwise specifically provided or when the context requires a different meaning, the following words shall, when used in this Part, be defined and construed as set forth in this section:

a) compensable occupational disease means any occupational disease defined in section § 24.2 which causes the disability or death of an employee, for which consequence compensation shall be payable according to the provisions of that section;

b) compensable occupational injury means any injury to an employee arising out of and in the course of employment, for the disability or death resulting from which compensation shall be payable in accordance with the provisions of Chapter 31;

c) dependents includes those members of the family of an employee who are, at the time of the employee's death or at the commencement of a disability resulting from an occupational injury or disease, wholly or partially dependent for the ordinary necessaries of life upon the earnings of such employee;

d) partial incapacity (or disability)---means an incapacity which reduces the earning capacity of the employee suffering therefrom in every available employment which they are capable of undertaking during the period of such incapacity; provided, however, that every injury specified in Schedule A annexed to this Part (except any such injury or combination of injuries, the lump sum or aggregate lump sum payment for which equals or exceeds 1460 times the daily rate) shall be deemed to result in permanent partial disability.

e) permanent incapacity (or disability)---means, in connection with an occupational injury, continuing for the medically foreseeable future and includes incapacity resulting from any injury specified in Schedule A annexed to this Chapter; and, in connection with an occupational disease, having a foreseeable duration of more than six months.

f) total incapacity (or disability) ---means such incapacity, whether of a temporary or permanent nature, as incapacitates an employee for any employment which he or she was capable of undertaking at the time he or she suffered the injury or disease causing such incapacity; provided, however, that permanent total incapacity shall be deemed to have resulted from any injury or combination of injuries specified in Schedule A annexed to this Part, the lump sum or aggregate lump sum payment for which equals or exceeds 1460 times the daily rate.

Schedule A. Permanent Disability

Injury	**LUMP-SUM Payment**
1. Loss of two limbs	1460 x daily rate*

2. Loss of both hands or all fingers and both thumbs	1460 x daily rate*	
3. Loss of both feet	"	" "
4. Loss of sight in both eyes	"	" "
5. Total paralysis	"	" "
6. Injuries resulting in being permanently bedridden	"	" "
7. Injuries resulting in loss of mental competence	"	" "
8. Any other injuries resulting in total permanent disability	"	" "
9. Loss of remaining hand by one-eyed workman**	640 x daily rate*	
10. Loss of remaining hand by one-armed workman**	550	" "
11. Loss of remaining foot by one legged workman**	700	" "
12. Loss of arm at shoulder	950	" "
13. Loss of hand at elbow	750	" "
14. Loss of hand at wrist	700	" "
15. Loss of fingers**	550	" "
16. Loss of thumb**		
Both phalanges	300	" "
One phalanx	100	" "
17. Loss of index finger***		
Three phalanges	230	" "
Two phalanges	100	" "
One phalanx	50	" "
18. Loss of middle finger**		
Three phalanges	150	" "
Two phalanges	75	" "
One phalanx	50	" "
19. Loss of ring finger		
Three phalanges	125	" "
Two phalanges	75	" "
One phalanx	50	" "
20. Loss of little finger***		
Three phalanges	100	" "
Two phalanges	50	" "
One phalanges	25	" "
21. Loss of metacarpal***		
First or second (additional) **(add 50 to above third or fourth or fifth. (Additional) number stated)**		
22. Loss of leg at or above knee	950 x daily rate	
23. Loss of leg below knee	808	" "
24. Loss of foot	700	" "
25. Loss of toes (one foot)		
All	100 x daily rate	
Great, both phalanges	50	" "
Other than great, if more than one toe lost, each	25	" "
26. Loss of eye		
Eye out	640	" "
Sight of	640	" "

Sight of, except perception of light	640	" "
27. Loss of hearing		
Both ears	700	" "
One ears	250	" "

Notes

Loss of use of member to be treated as provided in section § 31.4c).

* Represents 48 months' (four years') pay.
** One-eyed person means person who had sight in only one eye when employed.
** One-legged person means person who had only one leg when employed.
** One-armed person means person who had only one arm when employed.
*** The aggregate loss of two or more parts of the hand shall not exceed total for loss of hand.

CHAPTER 31 – COMPENSATION FOR OCCUPATIONAL INJURY

§ 31.1 Liability for compensation
§ 31.2 Compensation for death
§ 31.3 Compensation for temporary incapacity
§ 31.4 Compensation for permanent partial disability
§ 31.5 Compensation for permanent total disability
§ 31.6 Liability for medical treatment

§ 31.1 Liability for compensation

a) Every employer shall in accordance with the provisions of this Chapter pay or provide compensation or secure compensation to each employee (or to his or her dependents) for the disability or death of such employee caused by an injury arising out of and in the course of his employment, such compensation to be paid, provided, or secured without regard to fault as a cause of the injury, except as provided in paragraph b).

b) There shall be no liability on the part of an employer for compensation under this Chapter when the injury or death of their employee has been considered:

i) solely by the intoxication of the injured employee while on duty; or

ii) by the inexcusable misconduct of the injured employee; or

iii) by the willful intention of the injured employee to bring about the injury or death of him or herself or of another.

iv) for the purpose of this Chapter, an accident resulting in incapacity or death of an employee shall be deemed to arise out of and in the course of employment notwithstanding that the employee was, at the time when the accident happened, acting in contravention of statutory or other rule applicable to his or her employment or of any orders given by or on behalf of their employer or that they were acting without instructions from their employer if such act was done by the employee for the purposes of and in connection with their employer's trade or business.

v) when an accident happens to an employee during any temporary interruption of his or her work for a meal or for rest or refreshment, the accident shall be deemed to arise out of and in the course of his or her employment if the accident would have been deemed so to have arisen had it happened at the place of employment and if:

(1) the accident happens upon premises occupied by the employer; or (2) the accident happens upon premises to which the employee has by virtue of his or her employment the right of access during that temporary interruption of his work; or (3) the accident happens upon premises to which the worker is permitted to resort during that temporary interruption of his work by the express or implied authorization of his employer.

§ 31.2 Compensation for death

a) When an employee dies as the consequence of a compensable occupational injury, compensation shall be paid as set forth in this section.

b) If the deceased employee leaves any dependents wholly dependent upon his or her earnings, the amount of compensation shall be a sum equal to 48 months' earning.

c) If the deceased employee leaves no dependents who are wholly dependent, but only dependents who are partially dependent on his or her earnings, the Ministry shall award such compensation as it shall, after hearing representations by all interested persons, deem just, which compensation shall not be less than 20 per cent nor more than 80 per cent of the amount which would be awarded under paragraph b).

d) If the deceased employee leaves no dependents, the employer shall provide a coffin and pay any other reasonable funeral expenses not in excess of $50.00. He or she shall also be liable for any expenses set forth in section § 31.6 which have been incurred in consequence of the accident which caused the decedent's death.

e) If a deceased employee was, prior to his or her death, compensated for incapacity resulting from the occupational injury which subsequently caused his or her death, the amount of such compensation paid shall be deducted from the amount of compensation due under this section.

f) Compensation shall be paid in the manner set forth in section § 33.9.

g) Except as otherwise provided in paragraph d), the employer shall, in every case to which this section is applicable, provide his or her coffin and $50.00 for the funeral expenses of his or her deceased employee; and in every case he or she shall pay the reasonable medical expenses, if any, incurred in connection with the deceased employee's injury which resulted in his or her death, in accordance with the provisions of section § 31.6.

§ 31.3 Compensation for temporary incapacity

a) When an employee is temporarily incapacitated as the consequence of a compensable occupational injury, compensation shall be paid as set forth in this section.

b) In the case of temporary partial disability resulting in decreased earnings, the compensation shall be 60 per cent of the difference between the injured employee's daily earnings before the injury and his or her wages earned after the injury in the same or another employment available to him or her until he or she is granted medical approval to return to his or her regular employment.

c) In the case of temporary total disability, the compensation shall be 60 per cent of the injured employee's average daily earnings before the accident.

d) Compensation for temporary disability shall be paid in the manner provided in section § 33.9 b), provided, however, that compensation for temporary disability may be in the form of a lump sum calculated on the basis of the probable duration of the disability and its probable change in degree during that period, upon agreement of employer and employee within the presence of a labour inspector and an authorized representative of the a registered trade union.

§ 31.4 Compensation for permanent partial disability

a) When an employee suffers permanent partial disability as the consequence of a compensable occupational injury, compensation shall be paid on the basis of loss of earning capacity as set forth in this section.

b) In the case of a permanent partial disability, the amount of the compensation that shall be paid the injured employee shall be based on the formula set opposite the injury listed in Schedule A, attached.

c) In case of a permanent partial disability of a member or limb that does not involve the loss of such member or limb, the compensation shall be commensurate with the proportional loss of earning capacity, but not exceeding 50 per cent of the lump sum payment for that member or limb as appears in Schedule A; provided, however, that total permanent loss of a member or limb shall be compensated on the basis of the loss of such member or limb.

d) When more than one injury is caused by the same accident, the amount of compensation payable under the provisions of this section shall be aggregated, but in no case shall the total compensation payable exceed that payable for permanent total disability.

§ 31.5 Compensation for permanent total disability

a) When an employee suffers permanent total disability as the consequence of a compensable occupational injury, the compensation therefore shall be an amount equal to 48 months average earnings.

b) When a compensable occupational injury results in permanent total incapacity of such a nature that the injured employee requires the help and attention of another person, the Ministry may direct the payment of additional compensation not to exceed $500.00 of the amount payable under paragraph a

c) Compensation shall be paid in the manner set forth in section § 33.9.

d) If the injured or deceased employee worked for the same employer at substantially the same kind of work for a year, his or her average monthly earnings shall be computed by dividing his or her annual earnings by 12, and their average weekly earnings shall be computed by dividing his or her annual earnings by 52. Daily earnings shall in such case be computed by dividing the average weekly earnings by the average number of days worked per week.

e) If the injured or deceased employee did not work for the same employer at substantially the same kind of work for a year, his or her earnings shall be based on the average earnings which, during the twelve months prior to the injury, were earned by a person in the same grade, class, or district, employed at the same work by the same employer.

f) Any excess of earning over four hundred dollars per month shall not be taken into account in computing compensation benefits.

§ 31.6 Liability for medical treatment

a) The employer shall promptly provide for any injured employee such reasonable medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for such period as the nature of the injury or the process of recovery may require. The employer shall be liable for the payment of the reasonable expenses of medical, surgical, or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus or other devices or appliances necessary to support or relieve a portion or part of the body resulting from and necessitated by the injury of the employee, for such period as the nature of the injury or the process of recovery may require.

b) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his or her employee was injured through the fault or negligence of a third party not in the same employ; the employer shall, however, have a cause of action against such third party to recover any amounts paid by him or her for such medical treatment, as provided in section § 33.11.

c) Payments made by an employer for medical treatment of an injured employee in accordance with the provisions of paragraph a) do not constitute compensation within the meaning of section § 31.1 or section § 33.11.

CHAPTER 32 – COMPENSATION FOR OCCUPATIONAL DISEASE

§ 32.1 Liability for compensation
§ 32.2 Compensation for death
§ 32.3 Compensation for permanent total disability
§ 32.4 Calculation of average earnings
§ 32.5 Liability for medical treatment

Schedule A. Permanent Partial Disability

§ 32.1 Liability for compensation

a) Every employer shall in accordance with the provisions of this Chapter pay, or provide compensation or secure compensation to each employee (or his or her dependents) for the disability or death of such employee caused by any occupational disease as if such disease were a personal injury by accident arising out of and in the course of that

employment; provided, however, that the liability for compensation created by this section shall be limited by the revisions of paragraphs c) and d).

b) An occupational disease is one which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment, to which an employee is not ordinarily subjected or exposed outside of or away from his or her employment.

c) Liability for compensation under this section shall be limited to disability which commences or death which occurs (if it is not preceded by incapacity) within 2 years after termination of the employee's employment which is alleged to have caused the disability or death, or 5 years after the termination of the employment if the disability or death is alleged to be due to exposure to radium, ionized particles, other radioactive substances or other forms of radiant energy, or X-rays (roentgen rays).

d) There shall be no liability for compensation under this section unless the employee has been employed for a period sufficient in duration in the opinion of experts, for him or her to have contracted the occupational disease alleged to have caused his or her disability or death.

§ 32.2 Compensation for death

When an employee dies as the consequence of a compensable occupational disease, compensation shall be paid as set forth in section § 31.2 for death due to compensable occupational injury, and the provisions of that section shall apply with any necessary modification to occupational disease.

§ 32.3 Compensation for permanent total disability

When an employee suffers permanent total disability as the consequence of a compensable occupational disease, compensation shall be paid as set forth in section § 31.5 for permanent total disability due to compensable occupational injury, and the provisions of that section shall apply with any necessary modification to occupational disease.

§ 32.4 Calculation of average earnings

The calculation of average earnings for the purpose of determining compensation due under sections § 32.2 and § 32.33 shall be made in the same manner as the calculation of average earnings in section § 31.5, and the provisions of that section shall apply with any necessary modification to calculation of average earnings in case of occupational disease.

§ 32.5 Liability for medical treatment

a) When an employee suffers any disability, as a consequence of compensable occupational, disease, the employer shall be liable for medical treatment as defined in and to the extent required by section § 31.6 a) for occupational injuries; and the provisions of that section shall apply with any necessary modification to occupational disease.

b) The liability of an employer for medical treatment as herein provided shall not be affected by the fact that his or her employee was disabled as a consequence of his or her employment by occupational disease through the fault or negligence of a third party not in the same employ; the employer shall, however, have a cause of action against such third party to recover any amounts paid by him or her for such medical treatment, as provided in section § 33.11.

CHAPTER 33 – PROCEDURE

§ 33.1 Notice of injury or disease; application for compensation
§ 33.2 Notification of labour inspectors
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§ 33.1 Notice of injury or disease; application for compensation

a) In order to be entitled to receive compensation for disability or death resulting from an occupational injury or disease, the employee shall give timely notice of the occurrence of the

injury or disease to the employer allegedly liable for the compensation or to his or her agent. Timely notice shall be considered to mean within 60 days of the occurrence which caused the disability or death unless the Ministry shall find that a longer period was justified under the circumstances. The requirement of notice to the employer or his or her agent shall be deemed satisfied if notice is given to any supervisory official of the employer. If an employee suffers death or disability as a consequence of an occupational disease, and he or she has worked during the period specified in section § 32.1 c) for several employers in the kind of employment which is alleged to have caused the disease, notice to any one such employer shall be sufficient. It shall be the duty of the employer to whom notice was given to notify the other employers who may be liable for compensation; and if he or she fails to give such notice, he or she shall be liable for all compensation awarded for the death or disability of the employee.

b) The notice to the employer shall be in writing, or shall be reduced to writing by the employer or his or her agent. It shall give the name and address of the employee who has been disabled or has died and shall state in ordinary language the cause of the injury and the place and date of same or the description of the disease and any information available as to its onset. Notice may be given by the employee personally or by a member of his or her family or by a friend on his or her behalf; or, if the employee is deceased, by any of his or her dependents or by a person acting on their behalf.

c) Failure to give such notice or intentional and willful misstatement of essential information shall excuse the employer from his or her liability to pay compensation under this Chapter; provided, however, that the want of, or any defect or inaccuracy in such notice shall not excuse the employer from his or her liability for compensation under this Chapter if he or she is proved to have had knowledge of the injury or disease from any other source at or about the time of its occurrence or if it is determined at proceedings held under the provisions of this Chapter that the employer is not or would not be (if a notice or amended notice were then given and the proceedings adjourned for a reasonable period) prejudiced in his or her defiance by the want, defect, or inaccuracy of such notice or that such want defect or inaccuracy was due to mistake or other reasonable cause (including the absence of the employee from the country or from the vicinity of the employer's premises at the time of the onset of an occupational disease).

d) Notice of death of an employee given in accordance with the provisions of this section shall be deemed to constitute an application for compensation, and notice of disability may also so serve; but the Ministry of Labour may by regulation determine under what circumstances a separate application for compensation shall be made, the form and contents of such application, and the time for service upon the employer. The provisions of paragraph c) above shall apply with any necessary modification to every application for compensation.

§ 33.2 Notification of labour inspectors

a) The employer shall be responsible for notifying a labour inspector as soon as possible of all occupational injuries or disease suffered by his or her employees (of which he or she has received notice or other knowledge).

b) If an employee is killed or very seriously injured (so that permanent, total or almost total disability is likely to result) or if there is an accident in which a large number of employees are injured or if a large number of employees appear to be suffering from the same disease, (and there is any evidence that it is an occupational disease), the employer shall immediately notify the nearest labour inspector.

c) In all other cases it shall be sufficient, if there is no labour inspector in the vicinity, for the employer to make a complete and accurate record of all cases of occupational injury or disease suffered by his or her employees and to submit a true copy of such record to the Ministry of Labour at such intervals or to an inspector on his or her regular tour of inspection, as the Ministry may by regulation require.

§ 33.3 Settlement of claims for temporary disability

a) When an employer receives an application which is made by or on behalf of an employee for compensation for temporary disability and it appears that no permanent disability is involved, he or she shall immediately make a record thereof in duplicate.

b) In all cases comprehended by this section the employer or his or her agent and the employee (or some person who is authorized to represent him or her) shall discuss the claim and determine the amount, if any, which they believe required by law to be paid as compensations. The employer shall record such agreement, if any, and the reasons therefore on the application for compensation or in an annexure to such application; and the employer and the employee shall date and sign such agreement.

c) Every such agreement may be reviewed by the labour inspector on his or her regular tour of inspection. If he or she determines that the employee understands his or her rights generally and the terms of the agreement and that he or she has freely consented to such terms, the inspector shall approve same unless he or she finds serious errors of fact or law or bad faith on the part of either party. If he or she approves the agreement, he or she shall so indicate in writing on the agreement, the original of which shall be attached to the permanent record of the claim. If he or she does not approve, the labour inspector shall submit the claim to the Ministry for review, forwarding to the Ministry a true copy of the entire record, along with his or her observations and recommendations.

d) If the employer and the employee cannot agree as to the compensation due, the positions of each party shall be summarized in an annexure to the application and the record shall be preserved for consideration by the labour inspector upon his or her regular tour of inspection; provided, however, that if the inspector is not due for more than two months, the record shall, at the employee's request, be forwarded to the Ministry for its consideration in the first instance. In every case in which the employer and the employee agree that compensation is due, but differ as to the amount, the record shall show such partial agreement, and the employer shall

pay compensation to the extent that there is agreement, leaving for consideration by the inspector only the questions whether additional compensation is due, and, if so, how much.

e) In case of disagreement preserved for consideration by the labour inspector, he or she shall call together the employer and the employee for a discussion of the claim. If an agreement is reached, and the inspector approves it, he or she shall record same in an annexure to the application for compensation; and the agreement shall be dated and signed by all participants in the discussion. If the agreement is reached by a person acting on behalf of the employee, the inspector shall ensure that the agreement is explained to the employee, and that he or she agrees thereto. If no agreement is reached, the inspector may propose a settlement of the claim; if the parties agree thereto, it shall be treated as an agreement reached in the preceding provisions of this paragraph. If no agreement can be reached, the labour inspector shall submit the case to the Ministry, forwarding to the Ministry a true copy of the entire record, along with his or her observations and recommendation.

§ 33.4 Settlement of claims for permanent disability

a) In any case in which immediate notification of an inspector is required by section § 33.2§ 33.3 b) on account of serious injury to an employee, the inspector shall make an investigation of the accident which caused the injury. He or she shall submit to the Ministry his or her observations, depositions of witnesses and other documentary evidence reduced to writing, the examining physician's report, the statements of the employer and of the employee, and a true copy of the permanent record of the claim. The Ministry shall act as quickly as possible upon this record and the information furnished by the labour inspector in accordance with the provisions of section § 33.7.

b) In every other case of apparent permanent disability the employer shall immediately call in a labour inspector, if there is one present in the vicinity; and the labour inspector shall make an investigation of the circumstances leading to the injury or disease which caused the disability. He or she shall make recommendations to the employer and to the employee (or to their representatives) as to the compensation required to be paid pursuant to the provisions of this Chapter, based on the results of his or her investigations and the applicable statutory provisions. If the labour inspector's recommendations are accepted by the employer and by the employee, he or she shall report same to the Ministry. Along with the materials required to be submitted under paragraph a) and the written agreement of the employer and the employee.

c) If the labour inspector's recommendations, as originally made or as amended upon full discussion with the employer and the employee, are not accepted by both, the claim shall be submitted to the Ministry, along with the labour inspector's recommendation and the other materials required to be submitted under paragraph a); provided, however, that in the case of partial agreement, the employer shall pay compensation to the employee to the maximum amount agreed upon until the Ministry makes a determination. The Ministry shall act upon the claim in the manner set forth in section § 33.7.

d) In every other case of apparent permanent disability when there is no labour inspector available in the vicinity, the employer shall, as of the date that compensation first becomes due, pay the maximum compensation for which he or she admits liability to the disabled employee in the form of weekly payments (unless otherwise provided in section § 33.9, and he or she shall make a permanent record thereof, which shall be annexed to the claim for compensation. Upon arrival of the labour inspector on his or her regular tour of inspection or otherwise, the claim shall be presented to him or her, and he or she shall make an investigation and proceed as provided in paragraph b); provided however, that any payments made by the employer prior to the inspector's investigation and recommendations shall be credited against the total compensation due.

§ 33.5 Settlement of claims for death

In every case of death caused by occupational injury or disease, the employer shall immediately notify a labour inspector, as provided in section § 33.2 b). The inspector shall investigate the circumstances leading to the injury or disease and shall also attempt to determine whether the deceased employee had dependents, if any, and the degree of dependency of each. He or she shall make a determination of the compensation due and the persons entitled to receive same; he or she shall submit to the Ministry with his or her determination, his or her observation, depositions of witnesses and other documentary evidence or evidence reduced to writing, the physician's or coroner's report, if any, the statement of the employer and of the decedent's dependents, any protest against this determination, and a true copy of the permanent record of the claim. The Ministry shall act on this record and the other information furnished by the inspector in accordance with section § 33.7 f).

§ 33.6 Medical examination, treatment of disabled

a) The employer may require any employee who claims compensation for disability resulting from occupational injury or disease to submit to an examination by a physician at a place and time reasonably convenient to the employee. If a disabled employee refuses, without just cause, to submit to such examination, the employer shall not be required to pay the compensation otherwise required by the provisions of this Chapter. The physician's report shall form a part of the permanent record of the case.

b) The dependents of an employee who is alleged to have died as the consequence of a compensable injury or disease shall be required, at the request of the employer, to permit a physician to examine the body of their decedent and certify the cause of death; provided, however, that such examination is timely made. If such permission is refused without just cause, the employer shall not be required to pay the compensation otherwise required by

the provisions of this Chapter. If no physician is available, the coroner may, notwithstanding any other provision of law, be called to conduct an inquest into the death of any employee alleged to have resulted from occupational injury or disease; and the coroner shall be entitled to be paid his or her regular fees from public funds for performing such duty. The certificate of the physician or of the coroner as to the cause of death shall form a part of the permanent record of the case.

c) Whenever a physician who examines an employee allegedly disabled as a result of a compensable occupational injury or disease' prescribes treatment to arrest the disability or to rehabilitate the employee, it shall be the duty of such employee to follow such treatment to the best of his or her ability; and failure or refusal so to do, without just cause, shall justify the employer in refusing to pay the compensation otherwise required by this Chapter; provided, however, that the employer shall be required to supply the drugs, appliances, or equipment, required to carry out such prescribed treatment, as provided in sections § 31.6 and § 32.5, and to train the employee to use the same.

§ 33.7 Action by Ministry of Labour

a) Whenever a labour inspector forwards to the Ministry a record of a claim for compensation for temporary disability which has been settled to the mutual agreement of the employer and of the employee and which has been approved by the inspector, the Ministry shall review and approve the settlement unless it discovers some serious mistake of law, or believes that a serious mistake of fact has been made. In such case it shall order the return of the case to the labour inspector for further consideration and action in accordance with its directions or it shall issue general instructions to the labour inspectors as to the handling of future cases of the same sort if it feels that reopening the case in question would cause undue hardship.

b) When a labour inspector forwards to the Ministry a record of a claim for compensation for temporary disability on which no agreement has been reached among the employer, the employee, and the inspector, the Ministry shall review the record, the labour inspector's recommendations and the written statements or representations of the parties, but it shall not permit oral testimony except upon extraordinary circumstances, as it may in its discretion determine, making sure that all parties have equal opportunities to be heard in such case. The Ministry may approve the labour inspector’s recommendations without opinion, but shall state its reasons for any different decision. It shall be empowered to make interim or temporary order which it feels just in order to prevent undue hardship.

c) If a claim for compensation for temporary disability is forwarded to the Ministry without any report or recommendation of an inspector in accordance with the provisions of section § 33.3 d), the Ministry shall issue its decision as soon as possible, based on the

written record and the statements of the parties only. It shall be empowered to make any interim or temporary order which it feels just in order to prevent undue hardship.

d) In the case of a claim for compensation for permanent disability as submitted in accordance with the provisions of section § 33.4 a), the Ministry shall ordinarily issue its decision on the basis of the written record only, but it shall permit oral testimony to be given or arguments to be made upon the request of the employer or of the employee, extending equal opportunities therefore to both, including the right to examine and cross-examine witnesses. It may in an appropriate case examine the site of the accident or deputize one of its members to hear oral testimony at a place other than the site of the Ministry, or it may deputize an inspector to take statements or to hear further testimony on behalf of the Ministry. The Ministry shall state the reasons for every final decision in a case decided under this paragraph, but it may issue such interim or temporary order as it feels just in order to prevent undue hardship.

e) In every other case involving a claim for compensation for permanent disability, the Ministry shall ordinarily issue its decision on the basis of the written record only, but it shall permit oral testimony to be given or arguments made in the same manner and under the same circumstances as in paragraph d) above; and it shall have all, and any powers granted to it in that paragraph. The Ministry shall state in writing the reasons for its decision; but if it approves the recommendations of the labour inspector, it may adopt his or her reasons as its own.

f) In a case involving death, the Ministry shall have the same duties and the same powers as in the case of permanent disability under paragraph d) above. In addition, the Ministry shall determine who are the deceased employee's dependents, if any, and the degree of their dependency, and shall allocate the benefits among them.

g) If the employee for whose disability or death as a consequence of occupational disease compensation is sought worked for more than one employer at the same kind of employment which is alleged to have caused his disease within the period set forth in section § 32.1 c), and if the Ministry finds that the death or disability was in fact caused by such disease, it shall determine the proportionate share of the total compensation awarded to be borne by each such employer; provided, however, that the liability for such compensation shall be joint and several, and that the employee or his or her dependents may bring an action for debt for the entire amount due against any or all of such employers; each one of whom shall have recourse against every other for any payment made by him beyond his or her proportionate share as determined by the Ministry.

h) In proceedings before the Ministry held in accordance with the provisions of this section it shall be presumed in the absence of substantial evidence to the contrary:

i) that the claim for compensation comes within the provisions of this Chapter;

ii) that sufficient notice thereof was given;

iii) that the injury did not result solely from the intoxication of the injured or deceased employee while on duty;

iv) that the injury did not result from the inexcusable misconduct of the injured or deceased employee;

v) that the injury was not occasioned with the intention of the injured or deceased employee to bring about the injury, or death of him or herself or another; and

vi) that the contents of medical and surgical reports introduced in evidence by claimants for compensation shall constitute prima facie evidence of facts as to the matter contained therein.

§ 33.8 Enforcement; appeal

The enforcement of a decision or award of the Ministry in any proceeding arising under this Chapter and appeal from any such decision or award shall be subject to the provisions of Chapter 10.

§ 33.9 Compensation; how payable

a) Compensation shall be paid in the manner provided in this section; provided, however, that the provisions of paragraphs b) to f) shall be subject to the provisions of paragraph g), which shall supersede all provisions of the specified paragraphs to the extent inconsistent therewith whenever paragraph g) is properly invoked by an employer.

b) Except when the Ministry shall otherwise order, for good reason stated in the record, compensation for temporary disability caused by an occupational injury or disease shall be paid on the regular payday.

c) Compensation for permanent partial disability may be paid in a lump sum unless the Ministry, upon advice of the labour inspector or of a party or upon its own motion, determines that the employee, by reason of his or her minority or otherwise, is unable to make satisfactory use of a lump sum payment.

d) Compensation for permanent total disability or for death may be paid in a lump sum, unless the Ministry, upon advice of the labour inspector or of a party or upon its own motion, determines that the employee, by reason of his or her minority or otherwise, is unable to make satisfactory use of a lump sum payment or that the dependents of the disabled or deceased employee who are rightfully entitled to receive such payments on his, her or their own behalf are, for any such reasons, unable to make satisfactory use of lump sum payment. The Ministry shall, however, recommend payment of such compensation award in the form of a pension or of periodic-payments over a specified period of time unless it determines:

i) that the amount of the pension or periodic payments would be too small to serve any useful purpose; or

ii) that the disabled employee or his or her dependents or the dependents of the deceased employee will make wise and profitable use of the award if paid to him, her or them in a lump sum; provided, however, that the Ministry may recommend payment partly in the form of a pension or periodic payments and partly as a lump sum or in any other manner which may seem appropriate in the light of all the circumstances.

e) When a totally disabled employee is a minor or when the dependents of such an employee or of a deceased employee who are rightfully entitled to receive compensation on his, her or their own behalf are minors, the Ministry may direct that compensation be paid to his, her or their legal guardians or to a guardian specially appointed for the purpose of administering the compensation award in the best interests of such employee or of his or her dependents.

f) Every employer shall keep an accurate record of all payment made by him or her under each award entered against him by the Ministry and he or she shall render semi-annual reports thereon to the Ministry. Advance payments made by the employer while an issue as to compensation is still being determined shall be credited against the total amount required to be paid by him or her; provided, however, that an employer shall be entitled to recover overpayments made by him or her and received by an employee or by his or her dependents in good faith only by means of an action of quasi-contract.

g) Whenever an employer is unable to ascertain with assurance which persons are entitled to receive compensation due under an award, or does not know the whereabouts of the persons rightfully entitled to receive such compensation, or cannot easily pay over such compensation to the rightful payee due to his or her absence from the vicinity, or for any other good and sufficient reason, the employer may deposit the entire amount due under such award, together with a special administrative fee equivalent to one percent of the amount of the award (but in no case less than five dollars) in the probate court of the

county in which the employer's main or registered office is located or in which the disabled or deceased employee was employed (or the county nearest thereto if the office or place of employment is not located in any county). With such deposit the employer shall file an application to the court, reciting the award of the Ministry and the circumstances which make it impossible for the employer to pay over such compensation to the rightful payee; and a copy thereof shall be filed on the Ministry, which shall have the right to intervene in an appropriate case. The probate court shall, in the absence of a finding of bad faith on the part of the employer-applicant, grant such application and administer such fund in accordance with the provisions of this paragraph. The court shall, in connection therewith, be authorized, upon adequate notice and hearing:

i) to appoint, remove, replace, or discipline a special guardian for an injured minor or disabled employee or for the minor or incompetent dependents of a disabled or deceased employee;

ii) to require regular accounting and any special accounting which it shall deem necessary from any general or special guardian receiving funds under the provisions of this paragraph or of paragraphs c) or d);

iii) to determine who are the dependents of an employee rightfully entitled to receive compensation under the provisions of this Chapter; and

iv) to determine, with due regard to the Ministry's recommendations, how and in what form and what amounts the fund deposited in court shall be paid to the employee or to his or her dependents. The probate court shall render to the employer a semi-annual accounting for each fund deposited by him or her in accordance with the provisions of this paragraph, and a copy thereof shall be filed with the Ministry.

§ 33.10 Review of awards; modification

a) Every award of compensation for disability which continues longer than three months shall be reviewed at the end of said three months to determine whether the nature or extent of the disability has changed or was incorrectly determined in the first instance, and if any substantial change or error is discovered, a new award may be made by the Ministry on the basis of the conditions as newly determined or evaluated; provided, however, that an award for compensation for a temporary disability may make provision by formula for decreasing payments at the end of certain periods of time or upon the happening of certain specified events without resubmission of the question of the Ministry.

b) At any other time that the employer or employee feels that a substantial change in the condition of the disabled employee has taken place or that a reevaluation of the nature or of the extent of the disability is required, he or she may request an inspector in the vicinity or

the labour inspector who arrives on a regular inspection visit to reopen the question, examine and evaluate new evidence, and approve a new agreement or submit the opposing requests of the two parties for a changed award to the Ministry along with his or her own recommendations. Except in the case of a temporary disability which is gradually lessening, a request to modify an award because of the changed nature or extent of the disability or its original incorrect determination may be made to the Ministry if there is no labour inspector in the vicinity or due there within a reasonable period.

c) If an employee dies while disabled by an occupational injury or disease and it is alleged, that his or her death was caused by said injury or disease, the claim for additional compensation, if any, shall be treated as a request to the Ministry to reopen and modify the award.

d) In acting upon any request to change an award, the Ministry shall have all the powers vested in it to make original awards by the provisions of this Chapter. In the case of changed awards agreed in by the employer and the employee and approved by the labour inspector, the Ministry shall simply approve the modification without opinion unless it finds a substantial error of law or of fact.

e) The employer is entitled to require a disabled employee to submit to continuing medical examinations at reasonable intervals, to ascertain the progress of his or her recovery and the efficacy of any prescribed treatment provided, however, that the Ministry is empowered to issue rules, in accordance with the provisions of section 34.2(a) of the Executive Law to prevent harassment of a disabled employee by his or her employer in the guise of exercising their rights under this subsection.

f) The Ministry may, upon notice and hearing to all interested persons, modify or set aside any award not completely executed upon a showing of substantial inequity or for any other sufficient reason fully set forth in the record.

§ 33.11 Rights against third party

a) If an employee suffers a disability arising out of and in the course of his or her employment as the consequence of the act of a third-party not in the employ of his or her employer, he or she is nevertheless entitled to the compensation provided by this section for occupational injury (or disease); and his or her employer may bring an action against such third-party for all damages suffered by him or her (including all compensation paid by him or her to the employee, the cost of all medical treatment, and any other payments required by the provisions of this Chapter) as the consequence of the injury to the employee. Such action shall be brought within one year after the Ministry awards such compensation; but another action may be brought for an additional award under section §

33.10; provided, however, it is brought within one year after such additional award is made.

b) An employee who suffers disability arising out of and in the course of his or her employment as a consequence of the act of a third-party, not in the employ of his or her employer may sue the tortfeasor directly for his or her damage in accordance with the provisions of the Private Wrongs Law.

c) If an employee sues the tortfeasor after claiming and obtaining compensation for his or her disability, he or she shall be compelled to join his or her employer as a party plaintiff; and the employer shall be entitled to recover the amount which he or she has paid or for which he or she is liable as compensation under this Chapter, and the employee to recover the balance of the judgment, if any. If the employee claims compensation from his or her employer after obtaining a judgment against the tortfeasor, he or she shall receive such amount only as represents the difference between the total amount of compensation to which he or she would otherwise be entitled, and the amount of judgment he or she received; provided, however, that if the amount of the judgment exceeds the total amount of compensation he or she would otherwise be entitled to, he or she shall receive no compensation, under the provisions of this Chapter.

§ 33.12 Effect of revenue from other sources

The fact that an employee is entitled to sickness, disability, or death benefits under a contract of employment, a contract of insurance or from any other source (except as the result of a judgment against a third-party tortfeasor as provided in section § 33.11) shall not affect his or her right to compensation under this Chapter, nor the amount of compensation to which the employee is entitled.

§ 33.13 Rights not to be waived or assigned

a) Any agreement by an employee to waive his or her rights under this Chapter shall be void.

b) Any attempt by an employee to assign his or her rights under this Chapter shall be void, and any agreement to assign compensation payment due under this Chapter shall likewise be void. Compensation payments made pursuant to the requirements of this Chapter shall not be subject to garnishment or attachment, except to execute a judgment against an employee for fraudulently obtaining such compensation.

§ 33.14 Enforcement of payment in default

a) Compensation due under the provisions of this Chapter shall be a lien against the assets of the employer (and of the employer's insurance carriers, if any) without limit as to amount, subordinate, however, to claims for unpaid wages and to prior recorded liens.

b) If an employer fails to make any payment required under the provisions of this Chapter on an award of the Ministry of Labour (affirmed by the Labour or Circuit Court, if an appeal was taken therefrom), the employee is entitled to bring an action of debt for the amount due and to obtain summary judgment thereon. The employer shall not be permitted to attack the award collaterally in such an action of debt.

§ 33.15 Records

a) Every employer shall keep records prescribed by this Chapter in the manner prescribed. An employer shall also keep records of every injury reported to them which requires first aid treatment and absence from work for more than a day. All such records shall be available during business hours to labour inspectors and other officials of the Ministry; and any employee or the representative of a deceased employee shall be given a reasonable opportunity to consult the employer's records as to his or her own or his or her decedent's injuries or illness; or the employer may provide his or her employee (or his or her representative) with a copy thereof. For any offence against this paragraph for which no other penalty is prescribed, a violator shall be penalized as set forth in section 3.4 of the Penal Law.

b) The Ministry shall keep permanent records on all compensation laws, which it is called upon to approve or decide. It shall keep a special file of awards and decisions with opinions, which shall be suitably indexed and shall be available for public inspection during business hours.

c) Except as hereinabove provided, all records prescribed by this Chapter shall be confidential. Any government official or employee who discloses any information obtained from any such record except as a witness in court or when otherwise required by law shall be dismissed from office and subject to the penalties for malfeasance.

§ 33.16 Alternative remedies

The liability of an employer under this Chapter shall be exclusive and in lieu of any other liability whatsoever on his or her part, under the laws of Liberia or of any other country, to his or her disabled or deceased employee and to the employee's personal or other legal representatives, his or her spouse, children, parents, dependents; or next of kin, or to anyone otherwise entitled to recover damages, at common law or otherwise, on account of such disability or death.

§ 33.17 Ministry to prescribe forms and procedures

The Ministry shall have the power to prescribe forms and procedures to be followed in connection with all compensation matters under this Chapter. This power shall be in addition to all other powers granted to the Ministry by the provisions of this Act.

§ 33.18 Separability

If any provision of this Chapter, or the application of any such provision to any circumstances or persons, shall be held invalid, the validity of the remainder of the Chapter and the applicability of such provisions to other circumstances or persons shall not be affected thereby.

PART VIII: REPRESENTATIVE ORGANISATIONS

CHAPTER 34 – GENERAL

§ 34.1 Object

§ 34.1 Object

The objects of this Part are to:

a) Give further effect to certain fundamental rights protected in the Constitution of the Republic and Chapter Two of this Act;

b) Establish a fair and balanced system for the functioning and oversight of representative organizations of employers and workers; and

c) Provide certain measures of support for the operation of registered organizations as agents of social dialogue and sound industrial relations.

CHAPTER 35 – ESTABLISHMENT AND WINDING UP OF REPRESENTATIVE ORGANISATIONS

§ 35.1 Constitutions of trade union or employers' organization § 35.2 Changing the constitution of a registered trade union or registered employers' organization

§ 35.3 Winding up of trade union or employers' organization
§ 35.4 Appeals from decisions of the Minister

§ 35.1 Constitutions of trade union or employers' organization

a) A trade union or employers' organization that intends to register under section § 36.1 shall adopt a constitution that meets the requirements set out in this section.

b) The constitution of a trade union or employers' organization that intends to register under this Act shall:

i) state the name of that trade union or employers' organization; ii) declare its objects; iii) describe the enterprise, industry or industries in its scope; iv) prescribe the qualifications for admission to membership;

v) provide for membership fees and the method for determining membership fees and other payments by members; vi) establish the circumstances and prescribe the procedure for the termination of membership, which shall include:

(1) an opportunity for the member to be heard; and
(2) a right of appeal vii) prescribe:
(1) the functions of its officials and office bearers;
(2) the procedure for the appointment or election of officials and office bearers, including any qualification for office;
(3) the terms of appointment of its officials and office-bearers; and (4) the circumstances and manner in which officials and office-bearers may be removed from office;
(5) in the case of a trade union, prescribe the procedure for nomination and election of workplace union representatives;

(6) prescribe:

(a) that there shall be at least one general meeting and convention of members every three years;
(b) that general meetings and conventions of members shall be open to all members; and
(c) the procedure for convening and conducting meetings and conventions of members and meetings of office bearers, including the quorum for meetings and conventions, and the manner in which minutes are to be kept;

(7) establish the manner in which ballots are to be conducted;
(8) provide for the banking and investing of funds;

(9) establish the purposes for which funds may be used; (10) provide that no payment may be made to an official or employee without the prior approval of its governing body granted under the hand of its chairperson except for their salaries and the expenses incurred by them in the course of their duties;
(11) provide for the acquisition and control of property;
(12) determine the date for the end of its financial year;
(13) prescribe a procedure for affiliation, or amalgamation, with another trade union or employers' organization, as the case may be; (14) prescribe a procedure for changing the constitution; and
(15) prescribe a procedure by which it may be wound up.

c) A constitution of a trade union or employers' organization shall not:
i) conflict with

(1) the fundamental human rights and freedoms set out in Chapter III of the Constitution of the Republic;
(2) the fundamental rights at work protected in Chapter 2 of this Act; or
(3) any other law;

ii) hinder the attainment of the objects of any law; or iii) evade any obligation imposed by any law.

d) The Minister may:

i) notify any trade union or employers' organization in writing that the Minister has reason to believe that its constitution does not comply with or contravenes this section; and

ii) in that notice, invite the trade union or employers' organization to make representations to the Minister or to redraft its constitution in order to meet the requirements of this section;

e) After considering any representations or redrafted constitution that may be submitted, the Minister may

i) inform the party that the constitution meets the requirements of this section; or

ii) inform the party that the constitution does not meet the requirements of this section.

§ 35.2 changing the constitution of a registered trade union or registered employers' organization

a) Any change to the constitution of a registered trade union or registered employers' organization takes effect only when the Minister approves the change under this section.

b) A trade union or employers' organization may apply for the approval of a change to its constitution by submitting to the Minister:

i) the prescribed form duly completed;

ii) the prescribed number of copies of the resolution containing the wording of the change; and

iii) a certificate signed by the chairperson stating that the resolution was passed in accordance with the constitution.

c) The Minister may require further information in support of the application.

d) The Minister shall:

i) consider the application and any further information supplied by the applicant; and

ii) if satisfied that the amendments meet the requirements contemplated in section § 35.1, approve the change by issuing:

(1) the prescribed certificate approving the change; or
(2) if it is a change of name, a new certificate of registration reflecting the new name.

e) If the Minister refuses to approve a change, the Minister shall give written notice of that decision and the reasons for the refusal.

f) The provisions of sections § 35.1 b) to e) apply, with the necessary changes, to applications under this section.

§ 35.3 Winding up of trade union or employers' organization

a) The Labour Court, or if no Labour Court is established in the relevant county, the Circuit Court, may order a trade union or employers' organization to be wound up if:

i) the union or organization has resolved to wind up its affairs and has applied to the court for an order giving effect to that resolution;

ii) the Minister or any member of the union or organization has applied to the court for its winding up and the court is satisfied that, for some reason that cannot be remedied, it is unable to continue functioning; or

iii) a person has applied for its winding up because it is insolvent.

b) If the reason for the winding up is insolvency

i) the Business Corporation Act and any other relevant law shall apply; but

ii) any reference in that Act to a court shall be interpreted as referring to the Labour Court, or if no Labour Court is established in the relevant county, to the Circuit Court.

§ 35.4 Appeals from decisions of the Minister

Any person aggrieved by a decision of the Minister made under this Chapter may lodge an appeal against that decision, in accordance with the procedures in Chapters Ten and Eleven.

CHAPTER 36 – REGISTRATION OF TRADE UNIONS AND EMPLOYERS' ORGANIZATIONS

§ 36.1 Requirements for registration
§ 36.2 Effect of registration of trade union or employers' organization § 36.3 Rights of registered trade unions and registered employers' organizations
§ 36.4 Obligations of registered trade unions and registered employers' organizations
§ 36.5 Failure to comply with obligations under this Chapter
§ 36.6 Failure to comply with constitution or election requirements
§ 36.7 Appeals from decisions of Minister

§ 36.1 Requirements for registration

a) Any trade union or employers' organization that has adopted a constitution that complies with section § 35.1 may apply to the Minister for registration, by submitting to the Minister:

i) the prescribed form duly completed; and

ii) three copies of its constitution, each duly certified by its chairperson and secretary as a true and correct copy of the constitution.

iii) the Minister may require further information in support of an application.

b) The Minister shall:

i) consider the application and any further information supplied by the applicant; and

ii) if the constitution of the applicant meets the requirements for registration set out in sections § 35.1 b) and c), register the applicant by issuing the prescribed certificate of registration.

c) If the Minister refuses to register the applicant, the Minister shall give written notice of that decision and the reasons for the refusal.

d) The Minister may, by regulation, prescribe further requirements or conditions to be satisfied before registration under this Chapter.

e) The Minister shall establish and keep a register of all registered trade unions and registered employers' organizations, which shall be available to the public to examine from time to time without charge, provided that the Minister may prescribe fees for providing copies of entries in the register.

§ 36.2 Effect of registration of trade union or employers' organization

a) A registered trade union or employers' organization shall enjoy the powers of a not-for-profit corporation specified under section 20.4 of the Associations Law.

b) A member, office bearer or official of a registered trade union or employers' organization is not personally liable for any liability or obligation incurred in good faith by that union or organization only because of being a member, office bearer or official.

§ 36.3 Rights of registered trade unions and registered employers' organisations

a) Subject to any provision of this Act to the contrary, a registered trade union has the right:

i) to bring a case on behalf of its members and to represent its members in any proceedings brought under this Act;

ii) of access to an employer's premises under section § 37.2;

iii) to have union fees deducted on its behalf under section § 37.3;

iv) to form federations with other registered trade unions;

v) to affiliate to and participate in the activities of federations formed with other trade unions;

vi) to affiliate to and participate in the activities of any international workers' organization and: to make contributions to such an organization; and
(1) to receive financial assistance from such an organization;

vii) in the case of a trade union recognized as an exclusive bargaining agent under section § 37.1 of this Act, to negotiate the terms of, and enter into, a collective agreement with an employer or a registered employers' organization; and

b) To report to the Ministry any dispute which has arisen between any employer and that employer's employees who are members of the trade union?

c) Subject to any provision of this Act to the contrary, a registered employers' organization has the right:

i) to bring a case on behalf of its members and to represent its members in any proceedings brought under this Act;

ii) to form federations with other registered employers' organizations;

iii) to affiliate to and participate in the activities of federations formed with other employers' organizations; and

iv) to affiliate to and participate in the activities of any international employers' organization and:

(1) to make contributions to such an organization; and
(2) to receive financial assistance from such an organization.

§ 36.4 Obligations of registered trade unions and registered employers' organizations

a) Every registered trade union and every registered employers' organization shall: i) maintain a register of members in the prescribed form; ii) keep proper books of account; iii) prepare at the end of each financial year:

(1) a statement of income and expenditure for that year; and

(2) a balance sheet showing its financial position at the end of that year; iv) cause its books of account to be audited and a report to be prepared at least once a year by a public accountant and auditor registered in Liberia;

v) within six months after the end of its financial year:

(1) make the statement of income and expenditure and the balance sheet referred to in paragraph a) iii) and the audit report referred to in paragraph a) iv) available to members;
(2) submit an annual return in the prescribed form to the Minister; and (3) submit the statement of income and expenditure and balance sheet referred to in paragraph a) iii) and the audit report referred to in paragraph a) iv) to a meeting and convention, or meetings and conventions of members or their representatives under its constitution.

b) The Minister may maintain, and make available to registered trade unions and employers' organizations a list of accountants and auditors for the purposes of their obligations under the previous section.

§ 36.5 Failure to comply with obligations under this Chapter

a) The Minister shall notify any registered trade union or employers' organization in writing that the Minister has reason to believe that the trade union or employers' organization is not complying with its obligations under this Chapter.

b) A notice referred to in paragraph a) shall give the trade union or employers' organization an opportunity to make representations.

c) After considering any representations made under paragraph b), the Minister may issue a compliance order, which may include required steps to rectify the failure to comply.

d) If a trade union or employers' organization fails to comply with a compliance order issued under paragraph c), the Minister may:

i) cancel its registration; or

ii) apply to the National Labour Court for an order to compel the union or organization to comply with the order, which may include an order suspending its registration pending compliance.

§ 36.6 Failure to comply with constitution or election requirements

a) If a registered trade union or registered employers' organization fails to comply with any provision of its constitution, the Minister, a member of a registered trade union or of a registered employers' organization may apply to the Labour Court, or if there is no Labour Court in the relevant County, to the Circuit Court, for an order:

i) directing the registered trade union or registered employers' organization and its officials and office bearers to comply with such provision to the extent indicated in the order;

ii) cancelling its registration; or

iii) for such further relief as the court may deem necessary.

b) If a violation or material irregularity occurs in connection with an election held under the constitution, rules or by-laws of a registered trade union or registered employers' organization or if any person affects or attempts to affect the outcome of an election by unlawful means, the Minister, in any case, a member of the registered trade union, in the case of a trade union, or a member of the registered employers' organization, in the case of a registered employers' organization, may apply to the Labour Court, or if there is no Labour Court in the relevant county, to the Circuit Court, for an order:

i) declaring such election to be null and void;

ii) directing the holding of a further election as specified;

iii) providing for interim arrangements in relation to the affairs of the trade union or employers' organization pending the outcome of any further election; or

iv) for such further relief as the Court may deem necessary.

§ 36.7 Appeals from decisions of Minister

Any person aggrieved by a decision of the Minister made under this Chapter may appeal according to the procedures in Chapters Ten and Eleven.

CHAPTER 37 – RECOGNITION AND ORGANISATIONAL RIGHTS OF REGISTERED TRADE UNIONS

§ 37.1 Recognition as exclusive bargaining agent of employees
§ 37.2 Trade union access to the premises of the employer
§ 37.3 Deduction of trade union dues
§ 37.4 Workplace union representatives

§ 37.5 Organizational rights in collective agreements
§ 37.6 Disputes concerning certain provisions of this Chapter

§ 37.1 Recognition as exclusive bargaining agent of employees

a) A registered trade union that represents the majority of the employees in an appropriate bargaining unit is entitled to recognition as the exclusive bargaining agent of the employees in that bargaining unit for the purpose of negotiating a collective agreement on any matter of mutual interest.

b) An employer or employers' organization shall not recognize a trade union as an exclusive bargaining agent under this Act unless

    i) the trade union

        (1) is registered under this Act; and
        (2) represents the majority of the employees in the bargaining unit; or

    ii) the Minister, under paragraph i), declares the trade union to be so recognized.

c) A registered trade union may seek recognition as an exclusive bargaining agent of an appropriate bargaining unit by delivering a request, in the prescribed form, to

    i) an employer to recognize it as the exclusive bargaining agent of a bargaining unit consisting of its employees or some of its employees; or

    ii) an employers' organization to recognize it as the exclusive bargaining agent of a bargaining unit consisting of the employees of its members.

d) The trade union concerned shall submit to the Ministry

    i) a copy of its request under paragraph c);

    ii) proof that the request has been served on the employer or employers' organization; and

    iii) if requested by the Ministry, proof that the trade union represents the majority of the employees within the bargaining unit, which proof might be obtained by

        (1) a ballot amongst the employees held under the supervision of the Ministry; or
        (2) any other manner mutually agreed between the trade union and the employer or employers' organization.

e) Within 30 days after the receipt of the request, the employer or the employers' organization shall notify the trade union in the prescribed form either

    i) that it recognizes the trade union as the exclusive bargaining agent of the employees in the bargaining unit

        (1) proposed by the trade union; or
        (2) agreed to by the trade union and the employer; or

    ii) that it refuses to recognize the trade union because it disputes
        (1) the appropriateness of the proposed bargaining unit; or
        (2) whether the trade union represents the majority of the employees in the proposed bargaining unit.

f) If the employer or the employers' organization:

    i) fails within 30 days to respond to a request, as required under paragraph e) i); or

    ii) refuses to recognize the trade union under paragraph e) ii),

the trade union may refer its request in the prescribed form to the Ministry.

g) When referring a dispute under paragraph f), the registered trade union shall satisfy the Ministry that a copy of the notice of the dispute has been served on all other parties to the dispute.

h) If a dispute has been referred to the Ministry, the procedures in sections § 9.2 to § 11.3 shall apply, with any necessary modification.

i) If in the course of proceedings under this section the Ministry is satisfied that the trade union represents the majority of the employees in the agreed bargaining unit, or a bargaining unit that the Ministry considers to be appropriate, the Ministry may make an order declaring the union to be recognized as the exclusive bargaining agent of the employees in the agreed or appropriate bargaining unit.

j) In determining the appropriateness of a bargaining unit for the purposes of paragraph i), the Ministry shall:

    i) take the organizational structure of the employer into account; and

ii) promote orderly and effective collective bargaining with a minimum of fragmentation of an employer's organizational structure.

k) If an employer or employers' organization has recognized a registered trade union as an exclusive bargaining agent and the trade union no longer represents the majority of the employees in the bargaining unit, the employer or employers' organization shall:

i) give the trade union notice in the prescribed form to acquire a majority within three months; and

ii) withdraw recognition from that trade union if it fails to acquire that majority at the expiry of the three month period.

l) If there is a dispute concerning the withdrawal of recognition under paragraph

k), any party to the dispute may refer the dispute in writing to the Minister.

m) In any dispute contemplated in paragraph l), paragraphs g) to j) apply with the necessary changes, and the Ministry has the power to make any appropriate order including:

i) declaring that the trade union represents a majority of the employees in the bargaining unit;

ii) giving the trade union a further opportunity to acquire a majority;

iii) altering the bargaining unit; or

iv) withdrawing recognition of the trade union as the exclusive bargaining agent of the employees in the bargaining unit.

n) A registered trade union which has been recognized as an exclusive bargaining agent in respect of the bargaining unit in question has a duty to represent, for the purposes stated in paragraph a), the interests of every employee falling in that bargaining unit, whether or not the employees are members of that trade union.

§ 37.2 Trade union access to the premises of the employer

a) An employer shall not unreasonably refuse access to the employer's premises to an authorized representative of a trade union that is recognized as an exclusive bargaining agent under section § 37.1 during working hours

i) to recruit members; or

ii) to perform any function under a collective agreement, the union's constitution or this Act; and

iii) outside of working hours, to hold meetings with members.

b) An employer shall not unreasonably refuse an authorized representative of a registered trade union access to the employer's premises, outside of working hours

i) to recruit members; ii) to hold a meeting with members; or iii) to perform any union functions under a collective agreement, the union's constitution or this Act.

c) An employer may require proof that an individual claiming to be the authorized representative of a trade union is

i) an official or office-bearer of that trade union; or

ii) duly authorized to represent the union.

d) The rights conferred by subsection (1) are subject to any conditions that are reasonable, taking into account the effective performance of the employer's operations.

§ 37.3 Deduction of trade union dues

a) An employer shall deduct a fee due to a registered trade union from an employee's remuneration if the trade union is recognized as an exclusive bargaining agent by the employer, and if:

i) the employee has authorized the deduction in writing; or ii) subject to paragraphs d) and e), a provision in a collective agreement has authorized the deduction.

b) An employer may deduct a fee due to any other registered trade union from an employee's remuneration if the employee:

i) is a member of the registered trade union; and ii) has authorized the deduction in writing.

c) A provision in a collective agreement contemplated in paragraph a) ii) is valid until the earlier of:

i) the date three years after the provision takes effect; or

ii) the date on which the majority of the employees subject to the agreement vote in favor of invalidating the provision in a ballot conducted by the Minister under paragraph d).

d) The Minister may, on good cause shown, conduct a ballot contemplated in paragraph c) ii) if 25 per cent of the employees subject to the agreement request the Minister to conduct a ballot to determine whether the majority of the employees are in favor of invalidating the provision.

e) In a ballot conducted under paragraph d), if

i) the majority do not vote in favor of invalidating the provision, no further ballot may be conducted before the expiry of the provision under paragraph c) i); or

ii) the majority vote in favor of invalidating the provision, no new collective agreement containing such a provision is valid for a period of a year after the ballot unless

(1) another ballot has been conducted by the Minister; and
(2) a majority of the employees to be covered by the agreement vote in favor of such a provision.

f) An employer shall stop deducting a fee due to a registered trade union within one calendar month of being notified in writing that the employee concerned has withdrawn the authorization referred to in paragraph b) i).

g) An employer who has deducted fees under this section

i) may retain as a collection fee an amount not exceeding 5 per cent of the total amount deducted; and

ii) shall pay the remaining money deducted to the trade union within seven days of the end of the month in which the deductions were made, together with a statement reflecting the names of the employees, the amounts deducted and the date of the deduction.

§ 37.4 Workplace union representatives

a) In any workplace, employees who are members of a registered trade union are entitled to elect from among themselves

i) one workplace union representative, if there are more than five members;

ii) two representatives, if there are more than 25 members;

iii) three representatives, if there are more than 50 members; or

iv) if there are more than 100 members

(1) four representatives for the first 100 members; and
(2) an additional representative for every additional 100 members.

b) Whenever it is necessary to conduct an election for a workplace union representative:

i) the election shall be conducted in the prescribed manner; and ii) the employer shall provide any facilities that are reasonably necessary for the purposes of conducting the election.

c) A workplace union representative holds office for two years, and may stand for re-election.

d) The functions of a workplace union representative are:

i) to make representations to the employer of the employees who elected the representative concerning

(1) any matter relating to terms and conditions of those employees' employment; and

(2) any dismissal of employees arising from the reduction of the workforce as a result of the reorganization or transfer of the business or the discontinuance or reduction of the business for economic, technological or structural reasons;

ii) to represent any employee in respect of whom the representative was elected in any disciplinary or dismissal proceedings against that employee; and

iii) perform any other function that may be provided for in a collective agreement.

e) The employer shall grant each workplace union representative:

i) reasonable time off during working hours without loss of pay in order to perform the functions of that office; and

ii) reasonable leave of absence to attend meetings or training courses of their registered trade union, provided that payment for the leave of absence lies in the employer's discretion.

§ 37.5 Organizational rights in collective agreements

Nothing in this Chapter precludes the conclusion of a collective agreement to extend or give better effect to the rights of a recognized trade union under this Chapter.

§ 37.6 Disputes concerning certain provisions of this Chapter

a) If there is a dispute about the non-compliance with, contravention, application or interpretation of this Part, other than a dispute concerning the recognition of a registered trade union, any party to the dispute may refer the dispute in writing to the Minister.

b) The party who refers the dispute shall satisfy the Minister that a copy of the notice of a dispute has been served on all other parties to the dispute.

c) The Ministry shall attempt to resolve the dispute by conciliation, and if it is unable to do so, shall determine the matter in accordance with the procedures in Chapters Nine, Ten and Eleven, with any necessary modification.

PART IX: AGREEMENT-MAKING AND INDUSTRIAL ACTION

CHAPTER 38 – GENERAL

§ 38.1 Objects

§ 38.1 Objects

The objects of this Chapter are to establish a legal framework that:

a) Promotes good faith bargaining and collective agreements as processes for negotiating and determining working conditions; and

b) Enables employers and workers to exercise their fundamental rights to bargain collectively and to engage in strikes and lockouts in an orderly way.

CHAPTER 39 – GOOD FAITH BARGAINING AND COLLECTIVE AGREEMENTS

§ 39.1 Duty to bargain in good faith
§ 39.2 Lodging and registration of collective agreements
§ 39.3 Content and duration of agreements
§ 39.4 Legal effect of collective agreements
§ 39.5 Extension of collective agreements to non-parties
§ 39.6 Exemptions from an extended collective agreement

§ 39.1 Duty to bargain in good faith

a) Parties to a dispute of interest shall use their best endeavors to resolve that dispute by concluding a collective agreement, and in order to do so, they shall bargain in good faith.

b) Without limiting the scope of the duty to bargain in good faith, it requires the parties to a dispute of interest to:

i) meet at reasonable times and places for the purpose of conducting face to face bargaining;

ii) state their position on matters at issue and explain that position;

iii) disclose in a timely way relevant and necessary information for bargaining including information that is reasonable necessary to support or substantiate claims or response to claims made during bargaining;

iv) act honestly and openly, which includes:

(1) not adding or withdrawing subjects for bargaining without warning; and
(2) not doing anything that does or is likely to mislead or deceive another party to the bargaining.

v) give thorough and reasonable consideration to the proposals of the other bargaining party, and respond to those proposals;

vi) bargain genuinely and dedicate sufficient resources to ensure this occurs;

vii) adhere to agreed outcomes and commitments made by the parties;

viii) respect confidences and information or proposals provided in circumstances where it is clear that they have been provided as part of a genuine attempt to negotiate an agreed settlement to the dispute of interest; and

ix) bargain directly with the persons represented by another party and not undermine or do anything likely to undermine the bargaining or the authority of the representatives conducing the bargaining.

c) The Minister, with the advice of the National Tripartite Council, may publish a code of good practice giving practical guidance on how to comply with the duty to bargain in good faith.

§ 39.2 Lodging and registration of collective agreements

a) An employer or an employers' organization which is a party to a collective agreement shall lodge a copy of the agreement with the Ministry within 30 days of the date on which it is executed by authorized representatives of the parties to the agreement, in accordance with any prescribed procedure.

b) The Ministry shall establish and keep a register of collective agreements lodged in accordance with this section, which shall be open to the public to examine from time to time without charge.

c) Any agreement lodged and registered in accordance with this section shall be available to the public to examine from time to time without charge, provided that the Ministry may prescribe fees for providing copies of registered collective agreements.

d) Subject to this Act:

i) the Minister shall register a collective agreement on the day when it is lodged; and

ii) a collective agreement takes effect from the day on which it is lodged.

§ 39.3 Content and duration of agreements

a) Any provision of a collective agreement that is inconsistent with this Act or the Constitution of the Republic is null and void and of no legal effect.

b) The Ministry may within 30 days of the date on which an agreement is lodged refuse to register an agreement if it:

i) contains a provision that is inconsistent with any of the fundamental rights in Chapter Two of this Act; or

ii) does not include:

(1) an arbitration procedure to resolve disputes about its interpretation, application and enforcement; or

(2) a provision indicating its minimum duration, which shall not be less than 12 months, nor longer than three years.

iii) If the Minister refuses in accordance with paragraph b) to lodge an agreement the Minister shall notify the parties to the agreement of the reason for refusing to register the agreement; and

iv) advise the parties on ways to revise the agreement so that it complies with this Act.

c) The negotiation of any necessary revision to an agreement that the Minister has refused to register in accordance with paragraph b) shall be considered a dispute of interest.

d) The Minister, with the advice of the National Tripartite Council, may promulgate a model dispute resolution procedure for use in collective agreements.

§ 39.4 Legal effect of collective agreements

a) A collective agreement binds

i) the parties to the agreement;

ii) the members of any registered trade union that is a party to the agreement;

iii) the members of any registered employers' organization that is a party to the agreement;

iv) the employees in the recognized bargaining unit, if a trade union that is a party to the agreement has been recognized as an exclusive bargaining agent under section § 37.1; and

v) any other employees, employers, registered trade unions or registered employers' organizations to whom the agreement has been extended under section § 39.5.

b) A collective agreement binds for the whole period of the agreement every person bound under paragraphs a) ii) and iii) who was a member at the time it became binding or who becomes a member after it became binding, irrespective of whether or not that person continues to be a member of the registered trade union or registered employers' organization for the duration of the agreement.

c) Subject to paragraph d), the provisions of a collective agreement relating to the terms and conditions of employment vary every contract of employment between an employee and an employer who are both bound by the agreement and are deemed to have incorporated into the contract of employment.

d) Unless the agreement expressly states otherwise, a collective agreement does not preclude the conclusion of a contract of employment that contains terms and conditions more favorable than those contained in the agreement, provided that the employer enters into the said contract in good faith and without impairing or undermining collective bargaining or the status of the registered trade union involved.

§ 39.5 Extension of collective agreements to non-parties

a) Despite section § 1.4, for the purposes of this section, 'collective agreement' means an agreement between an employer or a registered employers' organization and a registered trade union that is recognized by that employer or employers' organization under section § 37.1.

b) The parties to a collective agreement may ask the Minister, in the prescribed form, to extend that agreement to employers and employees:

i) who are not members of the parties to the agreement; and

ii) who are in the industry to which such agreement relates.

c) The Minister shall:

i) publish a request made under paragraph b) in the Official Gazette of the Republic of Liberia; and

ii) invite objections to the request within a period specified in the Official Gazette of the Republic of Liberia, which period shall not exceed 30 days as from the date of publication of the request in the Official Gazette of the Republic of Liberia;

iii) serve copies of any objection received under paragraph c) ii) on the parties to the agreement; and

iv) invite responses to those objections within a period, which shall not extend more than 14 days as from the date of invitation.

d) The Minister shall not extend a collective agreement unless:

i) the Minister has considered any objection or response received under paragraph c); and

ii) the Minister is satisfied that

(1) the agreement is not in conflict with the Constitution of the Republic or any law;

(2) the agreement is not, on the whole, less favorable than the terms and conditions of employment that applied to employees immediately before the conclusion of the agreement;

(3) the agreement provides for an arbitration procedure to resolve disputes about its interpretation, application and enforcement; and (4) the request to extend the agreement complies with this section.

e) An arbitration procedure in a collective agreement shall specify the person or persons who shall arbitrate, or the procedure by which an arbitrator or arbitrators shall be selected, and may specify that the Ministry shall be empowered to arbitrate.

f) If a collective agreement provides that the Ministry is empowered to arbitrate, the procedure for such arbitration shall be that specified in the terms of the agreement.

g) If that agreement meets all the requirements set out in paragraph d), the Minister shall extend that collective agreement for a fixed period to the parties contemplated in paragraph b), by publishing a notice to that effect in the Official Gazette of the Republic of Liberia.

h) After a notice contemplated in paragraph e) has been published, the Minister may, at the request of the parties to the collective agreement, publish a further notice in the Official Gazette of the Republic of Liberia:

i) extending the period specified in the earlier notice by a further period determined by the Minister;

ii) if the period specified in the earlier notice has expired, declaring a new date from which, and a further period during which, the provisions of the earlier notice will be effective; or

iii) cancelling all or part of the notice published under paragraph e).

i) Paragraphs b) to f), read with the necessary changes, apply in respect of the publication of any notice under paragraph h) i) or ii).

j) In addition to publishing any information in the Official Gazette of the Republic of Liberia, as contemplated in this section, the Minister shall, where appropriate, publish the information through other available means, with a view to ensuring that the intended recipients of the information receive the information.

§ 39.6 Exemptions from an extended collective agreement

a) Any person bound by the extension of a collective agreement under this Chapter may apply in the prescribed form to the Minister for an exemption from the extension of the agreement.

b) If the Minister is satisfied that special circumstances exist justifying the exemption applied for, the Minister may:

i) exempt the person who has applied under this section by notice in writing; and

ii) may subject the exemption to any condition.

c) The Minister shall serve a copy of any exemption granted under this section on the parties to the collective agreement.

CHAPTER 40 – CONCILIATION OF DISPUTES

§ 40.1 Definitions
§ 40.2 Appointment of conciliators
§ 40.3 Referral of dispute to conciliation
§ 40.4 Conduct of conciliation
§ 40.5 Outcome of conciliation
§ 40.6 Consequences of failing to attend conciliation meetings

§ 40.1 Definitions

For the purposes of this Chapter, dispute means any of the following:

a) A dispute of interest; and

b) A dispute referred for conciliation by the President under section § 42.1.

§ 40.2 Appointment of conciliators

a) Subject to the laws governing the civil service, the Minister shall designate as many qualified officers employed by the Ministry as may be necessary to conciliate disputes under this Act.

b) Officers designated to conciliate disputes shall perform no duties inconsistent with their duties and responsibilities in this respect.

c) The Minister may, subject to such terms and conditions as the Minister may determine, also appoint, on a part-time basis, conciliators who are not officers employed by the Ministry.

d) The Minister may, from individuals appointed under this section, designate a conciliator to try to resolve by conciliation, any dispute referred to the Minister under this Part.

e) A conciliator who is not an officer employed by the Ministry may be paid fees and allowances by the Ministry at a rate determined by the Minister.

f) The fees and allowances determined under paragraph e) may differ in respect of different categories of conciliators as determined by the Minister.

g) The Minister may, for good cause shown, withdraw the appointment of any conciliator appointed under this Act.

§ 40.3 Referral of dispute to conciliation

a) Any party to a dispute may refer the dispute in the prescribed form to the Minister.

b) The party who refers the dispute shall satisfy the Minister that a copy of the referral has been served on all other parties to the dispute.

c) The Minister, if satisfied that the parties have taken all reasonable steps to resolve or settle the dispute, shall

i) refer the dispute to a conciliator to attempt to resolve the dispute through conciliation;

ii) determine the place, date and time of the first conciliation meeting; and

iii) inform the parties to the dispute of the details contemplated in paragraphs i) and ii).

d) After the appointment of a conciliator under paragraph c), any party to a dispute may apply to the Minister for the removal of the conciliator first appointed, and the appointment of a different conciliator, provided however that an application under this paragraph may only be made:

i) on the ground of apprehended or actual bias on the part of the appointed conciliator;

ii) within five days of the date of the notice of the appointment of the conciliator, or before the date of the first conciliation meeting, whichever is the sooner; and

iii) once by any party in respect of any dispute.

e) The Minister shall determine an application under paragraph d) within three days of the application being lodged.

§ 40.4 Conduct of conciliation

a) Subject to the provisions of sections § 41.1 a) iii) and c), the conciliator shall attempt to resolve the dispute through conciliation within

i) 30 days of:

(1) the date the Minister received the referral of the dispute; or
(2) the date the Minister received an application under section § 40.3 d), if that application was made by the party that referred the dispute to the Minister; or ii) any longer period agreed in writing by the parties to the dispute.

b) Subject to the rules promulgated by regulation under this Act, the conciliator:

i) shall determine how the conciliation is to be conducted; and ii) may require that further meetings be held within the period contemplated in paragraph a) above.

c) In any conciliation proceedings, a party to a dispute may appear in person or be represented

i) only by a member, office bearer, or official of that party's registered trade union or registered employer's organization;

ii) if the party is an employee, a co-employee; or

iii) if the party is a body established under the Associations Law or its equivalent under foreign law, a director, member or employee of the body, but counsel may not appear on behalf of a party except in the circumstances referred to in paragraph d) below.

d) A conciliator may permit

i) counsel to represent a party to a dispute in conciliation proceedings if

(1) the parties to the dispute agree; or
(2) at the request of a party to a dispute, the conciliator is satisfied that (a) the dispute is of such complexity that it is appropriate for a party to be represented by counsel; and
(b) the other party to the dispute will not be prejudiced; or

ii) any other individual to represent a party to a dispute in conciliation proceedings if
(1) the parties to the dispute agree; or

(2) at the request of a party to a dispute, the conciliator is, subject to paragraph § 40.5 a), satisfied that

(a) representation by that individual will facilitate the effective resolution of the dispute or the attainment of the objectives of this Act; (b) the individual meets any prescribed requirements; and

(c) the other party to the dispute will not be prejudiced.

iii) In deciding whether to permit representation of a party under this section, the conciliator shall take into account any applicable guidelines issued by the Minister.

§ 40.5 Outcome of conciliation

a) Subject to section § 40.6, a conciliator shall issue a certificate that a dispute is unresolved if:

i) the conciliator believes that there is no prospect of settlement at that stage of the dispute; or

ii) the period contemplated in paragraph § 40.4 a) has expired.

b) When issuing a certificate under paragraph p) the conciliator shall, if the parties have agreed, refer the unresolved dispute for arbitration under Part Two of this Chapter.

c) A conciliator referred to under section § 40.3 c):

i) remains seized of the dispute until it is settled; and

ii) shall continue to endeavor to settle the dispute through conciliation in accordance with any guidelines and codes of good practice issued by the Ministry.

d) A conciliator referred to under this Part may exercise any of the powers conferred on the Ministry by Chapter Nine, whether or not the conciliator was appointed from among the officers engaged by the Ministry.

§ 40.6 Consequences of failing to attend conciliation meetings

a) If a dispute is referred under section § 41.1 a) i), then paragraph c) of that section applies to any failure to attend a conciliation meeting.

b) In respect of any other dispute referred under this Act, the conciliator of the dispute may, after attempting to determine why a party did not attend a conciliation meeting:

i) dismiss the matter if the party who referred the dispute fails to attend a conciliation meeting; or

ii) determine the matter if the other party to the dispute fails to attend the conciliation meeting.

c) The Minister may reverse a decision made by a conciliator under paragraph b) above if:

i) application is made in the prescribed form and manner; and

ii) the Minister is satisfied that there were good grounds for failing to attend the conciliation meeting.

CHAPTER 41 – STRIKES AND LOCKOUTS

§ 41.1 Right to strike or lockout
§ 41.2 Prohibition of certain strikes and lockouts
§ 41.3 Strikes and lockouts in compliance with this Chapter
§ 41.4 Designation of essential services
§ 41.5 Disputes in a designated essential service
§ 41.6 Urgent injunctions

§ 41.1 Right to strike or lockout

a) Subject to section § 41.2, every party to a dispute of interest has the right to strike or lockout if

i) the dispute has been referred in the prescribed form to the Ministry for conciliation in accordance with section § 40.3;

ii) the party has attended the conciliation meetings convened by the conciliator;

iii) the dispute remains unresolved at the end of

(1) a period of 30 days from the date of the referral; or
(2) any other period, whether longer or shorter, that is determined in accordance with this Part

iv) after the end of the applicable period contemplated in paragraph c), the party has given 48 hours notice, in the prescribed form, of the commencement of the strike or lockout to the Ministry and the other parties to the dispute; and

v) the strike or lockout conforms to

(1) any agreed rules regulating the conduct of the strike or lockout; or (2) any rules determined by a conciliator under paragraph b).

b) If a dispute referred under paragraph a) cannot be resolved, a conciliator to whom the dispute has been referred under section § 40.3 shall –

i) attempt to reach an agreement on rules to regulate the conduct of the strike or lockout; and

ii) if the parties do not reach such an agreement, determine rules in accordance with any guidelines or code of good practice published by the Minister.

c) If the Minister refers a dispute for conciliation and

i) the party who referred the dispute under paragraph a) i) fails to attend the first meeting, the period contemplated in paragraph a) iii) 1) in respect of that party is extended to the date that is 30 days thereafter; or

ii) the other parties to the dispute do not attend the first meeting, the period contemplated in paragraph a) iii) 1) is shortened, and ends on the date of the first meeting.

§ 41.2 Prohibition of certain strikes and lockouts

A person shall not take part in a strike or a lockout if

a) Section § 41.1 has not been complied with;

b) The dispute is one that a party has the right to refer to arbitration or to adjudication under this Act;

c) The parties to the dispute have agreed to refer the dispute to arbitration;

d) The issue in dispute is governed by an arbitration award or a court order; or e) The dispute is between parties engaged in an essential service designated under section § 41.4.

§ 41.3 Strikes and lockouts in compliance with this Chapter

a) Despite any other law, an employee or member or official of a registered trade union may, in furtherance of a strike in compliance with this Chapter, hold a picket at or near the place of employment for the purpose of peacefully

i) communicating information; and

ii) persuading any individual not to work.

b) Despite the provisions of any contract of employment or collective agreement, an employer shall not

i) require an employee who is not participating in a strike that is in compliance with this Chapter or whom the employer has not locked-out to do the work of a striking or locked-out employee, unless the work is necessary to prevent any danger to the life, personal safety or health of any individual; or

ii) hire any individual, for the purpose, in whole or in part, of performing the work of a striking or locked-out employee.

c) An employee is entitled to resume employment within three days of the date

i) that the strike or lockout ended; or

ii) that the employee became aware or could reasonably have become aware of the end of the strike or lockout unless the employee has been dismissed for a valid reason.

d) An employer may not institute civil legal proceedings against a person who participates in a strike or a lockout in compliance with this Chapter, unless those proceedings concern an act that constitutes defamation or a criminal offence, or unless the proceedings arise from an employee being dismissed for a valid reason.

§ 41.4 Designation of essential services

a) The National Tripartite Council shall recommend to the Minister all or part of a service to be an essential service if, in the opinion of the National Tripartite Council, the interruption of that service would endanger the life, personal safety or health of the whole or any part of the population of Liberia.

b) When the National Tripartite Council is considering whether to recommend a service to be an essential service, the following requirements apply:

i) except in the case of an urgent application under paragraph k), the National Tripartite Council shall give notice in the Gazette of any investigation that the National Tripartite Council intends to conduct as to whether it should recommend that all or part of a service be designated as an essential service, which notice shall

(1) indicate the service or part of a service that is to be the subject of the investigation;
(2) invite interested parties to make written submissions within a period stated in the notice; and
(3) state the date, time and place of any hearing to be held in accordance with paragraph b) ii).

ii) the National Tripartite Council may hold a public hearing at which persons who made written submissions may make oral representations;

iii) after having considered the written submissions and oral representations, the National Tripartite Council

(1) may decide whether or not to recommend the designation of the whole or the part of a service that was the subject of the investigation as an essential service; and
(2) shall forward its report and recommendations to the President.

c) On receipt of the recommendations of the National Tripartite Council, the President shall consider those recommendations and if the President decides to designate any part of a service as an essential service, the President shall publish a notice of designation of that essential service in the Official Gazette of the Republic of Liberia.

d) In making a decision under paragraph c), the President is not bound by or obliged to follow the recommendation of the National Tripartite Council.

e) In addition to publishing a notice in the Official Gazette of the Republic of Liberia as contemplated in paragraphs b) i) and c), the National Tripartite Council or the President, as the case maybe, shall, through any other available means, publish the information contained in the notice, in order to ensure that the individuals whose interests are affected by the notices receive the information.

f) The National Tripartite Council may recommend to the President to vary or cancel the designation of any essential service, in which case paragraphs b) to f), apply with the necessary changes.

g) When the National Tripartite Council or the President, as the case may be, publishes a notice under paragraph b) i) or f), any interested party may inspect any written representations made pursuant to that notice.

h) A person may refer in writing to the National Tripartite Council a dispute about whether or not an employee or employer is engaged in an essential service, except for a dispute referred under paragraph k).

i) The party who refers a dispute to the National Tripartite Council shall satisfy the Council that a copy of the referral has been served on all the parties to the dispute.

j) In respect of disputes referred to the National Tripartite Council, paragraphs a) to e) apply with the necessary changes.

k) If any party to a dispute of interest asserts that the dispute pertains to a service that should be designated as an essential service, that party shall refer the matter to the National Tripartite Council for urgent consideration no later than the date on which the dispute is referred to the Minister in accordance with section § 40.3.

l) The National Tripartite Council shall consider the matter in accordance with paragraphs b) and c) and make its recommendation to the President within 14 days of the referral of the dispute.

m) The President, after considering the report of the National Tripartite Council, shall decide whether or not to designate the whole or part of the service as an essential service and shall communicate the decision to the parties within 14 days from the date of receipt of recommendations under paragraph l) above.

n) The requirements of paragraphs d), e) and f) apply to the President's decision, with the necessary changes.

o) An employer that is a party to the dispute referred to the National Tripartite Council under paragraph k) may not engage in a lockout, and a trade union that is a party to such a dispute may not conduct a strike, pending the President's decision.

§ 41.5 Disputes in a designated essential service

a) Any party to a dispute of interest, who is prohibited under section § 41.2 e) from participating in a strike or a lockout because that party is engaged in an essential service designated under section § 41.4, may refer the dispute to the Minister.

b) The party who refers the dispute shall satisfy the Minister that a copy of the notice of the dispute has been served on all other parties to the dispute.

c) The Minister may refer the dispute to be heard in accordance with the provisions of Chapters Nine, Ten and Eleven.

§ 41.6 Urgent injunctions

An urgent order enjoining a strike, picket or lockout that is not in compliance with this Chapter may not be granted, unless –

a) The applicant has given to the respondent written notice of its intention to apply for an the order, and copies of all relevant documents;

b) The applicant has served a copy of the notice and the application on the Minister; and

c) The respondent has been given a reasonable opportunity to be heard before a decision is made.

CHAPTER 42 – DISPUTES AFFECTING THE NATIONAL INTEREST

§ 42.1 Disputes affecting the national interest

§ 42.1 Disputes affecting the national interest

a) If the President considers it in the national interest, the President may

i) request the Minister to appoint a conciliator to conciliate any dispute, or potential dispute, between employers and their organizations on the one hand and employees and their trade unions on the other hand; or

ii) in consultation with the National Tripartite Council, appoint a panel of persons representing the interests of employers, employees and the State to investigate any industrial conflict or potential conflict for the purpose of reporting and making recommendations to the President.

b) Any panel appointed under paragraph a) ii) has all the powers of a conciliator set out in section § 40.5 d), read with the necessary changes.

PART X: EMPLOYMENT AGENCIES AND FOREIGN EMPLOYMENT

CHAPTER 43 – GENERAL

§ 43.1 Object

§ 43.1 Object

The object of this Part are to:

a) Provide an effective regulatory framework for the operation of employment agencies to recruit workers both within and without the Republic;

b) Promote the engagement of foreign workers in ways that will contribute positively to Liberia's economic and social development, including where appropriate through transfer of skills and technologies; and

c) Ensure equal treatment of foreign workers within Liberia.

CHAPTER 44 – EMPLOYMENT AGENCIES

§ 44.1 Employment agencies to be licensed
§ 44.2 Regulations for the operation of employment agencies
§ 44.3 Minimum age for recruitment of workers
§ 44.4 Examination of the health of recruited workers

§ 44.1 Employment agencies to be licensed

a) No person or association shall recruit any Liberian for employment either within or without the Republic unless such person or association be in possession of a license granted under the provisions of this Part.

b) The Ministry may license fit and proper persons to recruit Liberians in Liberia for the purpose of:

i) employment as employees outside the limits of the Republic; or

ii) employment as employees within the Republic.

c) A license granted under this section is valid for two years, and may be renewed but may not be transferred.

d) An applicant for a license granted under this section shall satisfy the Ministry that the applicant is properly registered as a business including, where appropriate, registered under any compulsory national social security scheme administered by the National Social Security and Welfare Corporation (**NASSCORP**) under the National Social Security and Welfare Law as amended.

§ 44.2 Regulations for the operation of employment agencies

a) The Minister may make regulations that apply either to recruitment of workers within Liberia to work within Liberia, or to recruitment of workers within Liberia for work outside Liberia, or both.

b) The Minister may make regulations that apply to temporary work agencies, or to job placement agencies, or to both.

c) Without limiting the generality of the preceding provision, the Minister may make regulations that:

i) stipulate the fee to be paid to obtain a license;

ii) determine the fees, if any, that an employment agency may charge job- seekers for the purpose of finding employment for that job seeker;

iii) require that an employment agency provide security as a condition of obtaining a license;

iv) specify the requirements for obtaining a license, including:

(1) an applicant's minimum age;
(2) a declaration as to whether the applicant and, if the applicant is incorporated, any person involved in the management of the applicant, has been convicted of such crimes as the regulations may specify as prohibiting an applicant from obtaining a license;
(3) a declaration summarizing the nature of the applicant's activities; (4) a declaration as to any other countries in which the applicant has activities, and as to whether the applicant has associated businesses incorporated in any of those countries;
(5) a declaration stating the nature of benefits and the legal protection provided to foreign nationals to be recruited by the applicant;
(6) particular experience and qualifications;
(7) a minimum level of capital; (8) evidence of ability to market and promote the business of an employment agent; and

(9) demonstrated knowledge of the legal framework for the protection of workers' basic rights in Liberia, including the protections in this Act.

v) the means by which an applicant for a license should demonstrate their knowledge of the legal framework for the protection of workers' basic rights in Liberia, including the protections in this Act.

vi) determine the conditions under which a license to operate as an employment agency might be revoked;

vii) specify the information that a licensed employment agency shall provide the Ministry, and the length of time an agency has to provide current information in the event that any of the information changes;

viii) specify the information that a licensed employment agency shall provide to any worker who is offered employment by the agency;

ix) require the keeping of registers and records relating to persons recruited by employers and recruiters in a prescribed form;

x) stipulate the fees to be paid for the issuance of certificates certifying that recruited persons have been properly and duly recruited; and

xi) prescribe penalties for the infringement of this section.

§ 44.3 Minimum age for recruitment of workers

a) No recruiter shall recruit any Liberian who is not 18 years or older.

b) Provided however that the Ministry may permit the recruiting of persons over the age of 16 years but less than 18 in accordance with such conditions as may be prescribed, and provided further that no such conditions shall be inconsistent with any other provision of this Act regulating the work of children, including regulations made for that purpose.

§ 44.4 Examination of the health of recruited workers

The Minister shall issue regulations requiring that persons to be recruited for employment for all trades or industries or occupations be medically examined before recruitment, and that their recruitment be subject to the provision of a medical certificate attesting their physical capacity to perform their proposed employment.

CHAPTER 45 – FOREIGN EMPLOYMENT

§ 45.1 Permission to work in Liberia
§ 45.2 Foreign workers to be informed of their working conditions
§ 45.3 Cost of transport to Liberia for work
§ 45.4 Repatriation of foreign workers
§ 45.5 Equal treatment of foreign workers
§ 45.6 Foreign workers' rights of association
§ 45.7 Foreign workers' rights to social security and welfare
§ 45.8 Foreign workers' rights not affected by irregularities
§ 45.9 Power to make regulations
§ 45.10 Penalties for non-compliance

§ 45.1 Permission to work in Liberia

a) An employer shall not employ a foreign worker unless they possess a current work permit issued by the Ministry.

b) A foreign worker shall not begin work in Liberia before they obtain a work permit in accordance with this Part.

c) The Ministry shall not issue a permit to work in Liberia unless it is satisfied that:

i) there is no suitably qualified Liberian available to carry out the work required by the employer; and ii) the applicant satisfies the requirements for foreign residence in Liberia.

d) The Ministry may refuse to issue a permit to a national of any country that does not accord at least equal reciprocal rights in employment to Liberians.

§ 45.2 Foreign workers to be informed of their working conditions

a) In the case of foreign workers, this section operates in addition to Chapter Thirteen of this Act.

b) An employer of a foreign worker shall ensure that the foreign worker knows the nature of their employment and working conditions before they commence employment in Liberia.

c) So far as reasonably practicable, an employer shall provide information to a foreign worker in a language that they are able to understand.

§ 45.3 Cost of transport to Liberia for work

The employer of any foreign worker brought to Liberia to work for that employer shall be responsible for the expense of the foreign worker travelling to their place of work in Liberia from their country of origin or residence, whichever is the closer.

§ 45.4 Repatriation of foreign workers

a) The employer of a foreign worker shall meet the cost of repatriation of the foreign worker to their country of origin or residence, whichever is the closer:

i) on the expiry of the period of service stipulated in the contract;

ii) on the termination of the contract by reason of the inability of the employer to fulfill the contract;

iii) on the termination of the contract by reason of the inability of the worker to fulfill the contract owing to sickness or accident;

iv) on the termination of the contract by notice but subject to the revisions of the particular contract; or

v) on the termination of the contract by a court, unless the court otherwise decides.

b) The expenses of repatriation shall include:

i) travelling and subsistence expenses during the journey; and

ii) subsistence expenses during the period, if any, between the date of the expiry of the contract and the date of repatriation, provided that an employer shall not be liable for subsistence expenses in respect of any period during which the repatriation of the alien worker is delayed by their own choice.

c)An employer is not required to meet the cost of repatriation of a foreign worker if the employer has cause to terminate the worker's employment under section § 14.3.

d) An employer shall provide under written contract adequate security in the form of bond or other security to guarantee repatriation of a foreign worker.

e) In the event of the death of a foreign worker, their employer shall prepare and transport the body of the deceased foreign worker to their country of origin or residence, if so required by the foreign worker's family.

§ 45.5 Equal treatment of foreign workers

a) A foreign worker resident in Liberia is entitled to enjoy, and to enforce in accordance with the terms of this Act:

i) all of the benefits of this Act and any regulations made under it; and

ii) the terms of any collective agreement that may apply to the work that the foreign worker is engaged to do.

b) An employer shall not discriminate against a foreign worker in the terms and conditions of employment that are offered, or in the conditions of employment that the foreign worker enjoys during their employment with that employer.

c) Any provision of a contract of employment that discriminates against a foreign worker in the terms and conditions of employment to which the foreign worker is entitled shall be null and void and of no effect to the extent of the discrimination.

d) Without limiting the operation of the preceding provisions, a foreign worker shall enjoy treatment no less favorable than that which Liberian workers enjoy in respect of:

i) remuneration, including family allowances where they form part of remuneration; ii) hours of work; iii) overtime arrangements; iv) weekly rest; v) holidays with pay; vi) occupational safety and health; vii)entry into and termination of the employment relationship; viii) restrictions on home work; ix) minimum age for employment; x) apprenticeship and training; xi) work of young children; or xii) accommodation.

§ 45.6 Foreign workers' rights of association

A foreign worker and any member of their family who is also lawfully present in Liberia may:

a) Take part in meetings and activities of trade unions, and of any other associations that are established in accordance with law, with the purpose of protecting their economic, social and cultural interests, subject only to the rules of the organizations concerned;

b) Join freely any trade union and any such association, subject only to the rules of the association; and

c) Seek the aid and assistance of any trade or other association contemplated by this section.

§ 45.7 Foreign workers' rights to social security and welfare

Subject to the terms of any agreement between Liberia and a foreign worker's country of origin, a foreign worker is entitled to treatment no less favorable than that which Liberian workers enjoy in respect of social security and welfare, whether under the provisions of this Act or otherwise, insofar as those provisions concern any or all of:

a) Employment injury;

b) Maternity;

c) Sickness;

d) Invalidity;
e) Old age;

f) Death;

g) Unemployment;

h) Family responsibilities; or

i) Any other contingency which is provided for.

§ 45.8 Foreign workers' rights not affected by irregularities

a) A foreign worker's rights under this Act are not affected by any irregularity in their stay or their employment.

b) An employer's obligations to a foreign worker are not affected by any irregularity in the foreign worker's stay or in their employment.

§ 45.9 Power to make regulations

a) The Minister may make regulations with respect to the employment of foreign workers in Liberia, including as to:

i) the process by which employers shall be permitted to engage foreign employees;

ii) the conditions, if any, that shall apply to an employer's permission to engage foreign employees;

iii) the process by which foreign employees shall be permitted to work in Liberia;

iv) the information that should be provided to a foreign employee before they begin work in Liberia;

v) the conditions, if any, that shall apply a foreign employee's permission to work in Liberia; and

vi) the conditions of work of foreign employees in Liberia.

b) Subject to the operation of Chapter Two, regulations made under this part may differ depending upon whether the foreign worker to whom they apply is a citizen of a Member State of the Economic Community of West African States.

§ 45.10 Penalties for non-compliance

a) Any person who violates the provisions of this Part, and/or any regulations made under this Part, shall be subject to penalties equivalent to those specified in the law for comparable violations committed against Liberian workers.

b) The maximum available penalty in the case of any violation shall be multiplied by the number of persons prejudiced by the violation.

c) In the case of violation of the obligation in section § 45.4 the employer shall be liable, in addition to any penalty imposed under this section, to cover the expenses of the alien worker returning to:

i) the destination designated in the contract of employment; or

ii) the place where the contract of employment was concluded; or

iii) the destination from which the alien worker came to work in Liberia; or

iv) the alien worker's country of origin if it is impossible for the worker to return to their previous destination.

PART XI: TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

CHAPTER 46 – MISCELLANEOUS

§ 46.1 Continuing operation of trade unions and employer organizations
§ 46.2 Preservation of existing rights
§ 46.3 Amendment of the Judiciary Law
§ 46.4 Repeals

§ 46.1 Continuing operation of trade unions and employer organizations

a) Nothing in this Act shall affect the continuation of:

i) labour unions, associations and organizations; or

ii) Organizations of employers that were previously established incorporated or registered under the Labour Law, the Labour Practices Law, the Associations Law or any other relevant law, and which are in existence at the date of this Act coming into force.

b) Without limiting the scope of the preceding provision, any:

i) labour union, association or organization; or

ii) organization of employers in existence at the date of this Act coming into force shall within three years of that date take all necessary steps to ensure that they comply with the requirements of Chapter Eight.

§ 46.2 Preservation of existing rights

a) Nothing in this Act shall be taken to abolish, affect, alter or remove any entitlement, interest or right accrued, acquired or exercised under the Labour Law and the Labour Practices Law.

b) Without limiting the scope of the preceding provision:

i) All accrued entitlements of employees who were already employed at the time of this Act coming into force shall remain vested in those employees.

ii) All contracts of employment that were in force at the time of this Act coming into force shall remain unaffected, and the service of all employees employed under those contracts shall continue unaffected.

iii) All appointments made, or permits issued at the time of this Act coming into force shall remain valid.

iv) All minimum wage orders in force at the time of this Act coming into force shall remain in force until replaced.

v) All collective agreements in force between any employer or employers' organization and any union or unions at the time of this Act coming into force shall continue in force unaffected.

vi) Any legal proceedings that had already been commenced, in which any question arises concerning the application of the Labour Law or the Labour Practices Law, whether or not that proceeding was commenced under either of those laws, shall continue to be on foot and shall not be in any way affected, and shall be decided under those laws as they were at the relevant time, notwithstanding the operation of section § 46.4.

§ 46.3 Amendment of the Judiciary Law

Section 23.16 of the Judiciary Law is hereby amended to read as follows:

"§ 23.16. Special jurisdiction of Circuit Court in labour cases.

Until the Judges of the Labour Court herein created are appointed and commissioned in each county of the Republic of Liberia, except Montserrado County, the Circuit Court therein shall exercise jurisdiction over all labor cases on appeal from the orders of the Ministry in their respective jurisdictions."

§ 46.4 Repeals

The following statutes are hereby repealed:

a) Labor Law, Title 18; and

b) Labor Practices Law, Title 18A, except as provided.

ANY LAW TO THE CONTRARY NOTWITHSTANDING.

THIS ACT SHALL TAKE IMMEDIATE EFFECT UPON PUBLICATION IN HANDBILL.