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Labour Law

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This Gazette contains the following:

- Decree No (94), dated January 17, 2007 of the President of Islamic Republic of Afghanistan;
- Labour Law endorsement; and
- Labour law (pages 5-68)

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Official Gazette

Islamic Republic of Afghanistan

No: (17933)

Dated: February 7, 2007

His Excellency Mr. Sarwar Danish, Minister of Justice!

The Labour Law which has been approved by approval No (35) dated January 15, 2007 of the Ministerial Council in 14 chapters and 153 articles, and endorsed by me as a legislative decree No (94) dated January 17, 2007, is sent to you to be published in the Official Gazette.

Hamid Karzai

President

Islamic Republic of Afghanistan

Islamic Republic of Afghanistan

President decree on endorsement of the Labour law

No: (94)

Dated: January 17, 2007

Article One:

Under article 79 of the Constitution of Afghanistan I hereby, endorse as a legislative decree, the Labour Law that has been approved by the Council of Ministers through approval No (35) dated January 15, 2007 of the Council, in 14 chapters and 153 articles.

Article Two:

The Minister of Justice of the Islamic Republic of Afghanistan and the State Minister in Parliamentary Affairs are responsible to present this Labour Law to the National Assembly within 30 days from the Assembly's first session.

Article Three:

This Legislative Decree is enforced from the date of endorsement and shall be published in the Official Gazette.

Hamid Karzai,

President

Islamic Republic of Afghanistan

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IN THE NAME OF ALLH, THE MOST MERCIFUL AND THE MOST COMPASSIONATE

LABOUR LAW

CHAPTER ONE

GENERAL PROVISIONS

Basis

Article One:

This law has been enacted in accordance with the Article Forty Eight of Afghanistan Constitution to regulate and explain the issues related to obligations, rights, allowances and social security of workers.

Objective

Article Two:

This law has the following objectives:

1. Determine, organize and strengthen working relations of the workers.
2. Ensure equal job opportunity and protect workers' rights.
3. Improve the work organization and output, develop work efficiency, rational usage of human resource and work source, strengthen work and products discipline, generalize improved payroll systems and social security to enhance the level of material, social and cultural life of workers.
4. Determine rights and obligations of the workers and persons responsible for work and product management; ensure protection and technical safety of work conditions; enhance and develop skills and capacities continuously for the purpose of growth and strength in the national economy.

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5. Generalize legality and apply the legislation related to labour equally in all aspects of work and products.
6. Facilitate the provision of job opportunities.

Terminologies

Article Three:

The terminologies used in this law bear the following meanings:

- (1) **Administration:** The ministries, government and non-government agencies, independent commissions, enterprises, private and joint ventures, and foreign organizations operating in the Islamic Republic of Afghanistan where the worker performs productive and service work.
- (2) **Employee:** Consist of male and female employee and contractual workers (employee, worker and service worker).
- (3) **Public Employee:** Is the person recruited permanently through the Civil Service Commission in accordance with the provisions of this law and other relevant laws.
- (4) **Worker:** Is the person that is recruited based on a definite contract.
- (5) **Service Worker:** Is the person that is recruited based on a definite contract to perform supporting services to the work of the organization.
- (6) **Contractual Workers:** Include worker, service worker and contractual employees that are recruited on the basis of contract for a definite period of time to perform a specific work.
- (7) **Employer:** Is the actual or legal person on whose approval or agreement a person is recruited or employed, and the employee's salary and other allowances are executed and paid either by him/her or his/her approval.
- (8) **Salary:** Is an amount of money paid to the worker for his/her work in service.
- (9) **Allowances:** Are the financial privileges that are paid regularly to the worker for performing a specific work based on the provisions of relevant legislative documents.
- (10) **Salary supplementary:** Are the financial allowances paid to the worker for performing a specific work in a definite period of time based on the provisions of relevant legislative document.
- (11) **Social Security:** Is an amount of financial assistance paid to an employee during work or

after retirement by contribution of the worker and administration or fully by the administration for the employee's livelihood.

- (12) **Attendance Record:** Is a document that determines the workers' presence in the office during official time and the personnel affairs department is responsible to prepare, arrange and keep it.

The workers' attendance is supervised by the relevant head of the department that appraises and certifies the registration of the workers.

Prohibition of Compulsory Work

Article Four

- (1) Compulsory work is prohibited. The work is compulsory when the worker works by threatening or in a way opposite to his/her will.
- (2) The work that the worker is obliged to do by the provisions of law is not considered compulsory work.

Regulating Work Relations

Article Five:

- (1) This law regulates the general relations of all sections of workers (including internal and external) with the administration. The sections of workers include:
 1. Workers of the ministries and government, joint and private agencies, independent commissions, and local and foreign non-governmental organizations in Afghanistan.
 2. Administrative workers of elected agencies (The National Assembly, the Provincial, District and Village Councils), military, police and national security departments.
- (2) The specific work relations of worker sections mentioned in paragraph (1) of this article are regulated by a separate legislation that is not against the provisions of this law considering the structure and legal nature of administration (governmental, joint, private, non-governmental, community and foreign organizations in Afghanistan).
- (3) If there is no provision found in this law and in the relevant legislative document on the work relations of specified workers, it would be regulated by the Ministry of Labour, Social Affairs, Martyrs and Disabled, provided that it is not against the law and principles of justice.
- (4) Selection, appointment, determining grade and degree procedures and conditions of promotions and upgrading of the workers mentioned in paragraph (1) of this article and

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officials who approve appointment, transformation, dismissal and reappointment, promotion and upgrading, pension, extension of working period, resignation, paid and non-paid leaves that is not anticipated in this law, would be regulated by separate legislation.

Application of Provisions of Labour Law on Foreign Citizens

Article Six:

- (1) Foreign Citizens who have obtained or will obtain later work permit based on previous separate contract or without it in the Islamic Republic of Afghanistan and are appointed in government or non-government private or joint organizations, have to obey the provisions of this law, and their appointment condition shall be regulated by separate regulation.
- (2) The government can impose restrictions on the foreign citizens whose countries have imposed restrictions on the citizens of the Islamic Republic of Afghanistan.

Application of Law

Article Seven:

Persons working in the diplomatic agencies and other government organization of Afghanistan abroad, or working in international and foreign organizations in Afghanistan have to obey the provisions of this law.

The Right to Work for Wage

Article Eight:

- (1) The workers in the Islamic Republic of Afghanistan have equal right to work with equal wages. The right to work for wage and protection of right to work will be regulated by separate legislation.
- (2) The workers are entitled to receive salaries and its allowances and supplements on the basis of the quality and quantity of work considering specific post, rank or grade.

Non-discrimination in Recruitment

Article Nine:

- (1) All kind of discrimination is prohibited in recruitment, payment of salary and allowances, selection of occupation, profession, skill and specialty, right to education and social securities.
- (2) The women in work field are entitled to specific allowances of pregnancy, maternity and other instances that are determined in this law and the relevant legislative documents.
- (3) Selection of occupation, profession, specialty, skill and kind of occupation according to educational field, interest, talent and preparation in the Islamic Republic of Afghanistan shall be open in accordance with the legislation.

The Right of Paid Leaves

Article Ten:

The workers, in accordance with the legislation, are entitled to paid rest and leaves anticipated in this law.

Usage of other Rights

Article Eleven:

The workers have the right of ensuring health and safety conditions in work and products, professional training, development of skills, enhancing professional knowledge level in economic and social areas and the right of using social securities.

Compliance with International Conventions

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Article Twelve:

The Islamic Republic of Afghanistan, taking into account special conditions of the country, observes International Labour Organization's Conventions, decisions and recommendations to which it has adhered or will adhere, as well as other Conventions and standards of international organizations related to labour and administration.

Chapter Two

Recruitment and Service Contract

Terms of Recruitment

Article Thirteen:

- (1) A person who meets the following qualifications can be recruited as worker:
 1. Holds the Afghan citizenship.
 2. Completes the age of 18 years. Workers doing light types of work should complete age of 15 and those trying to learn a profession should complete the age of 14.
 3. Presents a vocational training certificate that has been certified by the Ministry of Labour, Social Affairs, Martyrs and Disabled. Support staff is exempted from this provision.
 4. Presents health certificate issued by the relevant health department of the Ministry of Public Health.
 5. Provides a secondary or higher education graduation certificate (for employees only).

- (2) Recruitment terms and procedures of the employees shall be regulated by the relevant law.

- (3) The age of the employee at the time of recruitment is determined according to dates mentioned in his/her National ID card taking the day and month of his/her birth into consideration. This information is recorded in his/her personal file. Once employed changing the age entered into personal file shall not be valid.

- (4) Recruiting young people less than 18 years of age for businesses that are injurious to their health and cause physical damage or disability is prohibited.

- (5) The relevant legislative documents will regulate the recruitment, service contract terms and responsibilities for the foreign citizens in the local government and nongovernmental and international organizations operating in Afghanistan. However, the employees of diplomatic missions and the international organizations are exempted from this provision and shall be subject to bilateral agreements or contracts and international laws.

- (6) The newly recruited nationals and foreigners shall obtain an introduction letter (work permit) from the Ministry of Labour, Social Affairs, Martyrs and Disabled and provide to their employer.

Service Contract

Article Fourteen:

- (1) The service contract is a written agreement entered into by the employee and the employer or institution through which the employee is obliged to work for a definite or indefinite period of time according to job description and in return to which he/she obtains salary and other allowances;
- (2) The period of fixed contract is one year and can be extended by the agreement of both parties. However, if within one month after the expiration of fixed contract neither party proceeds to terminate or extend the contract, it shall be considered extended with the same terms and conditions;
- (3) Subsequent changes and amendments in a service contract may be allowed by the agreement of both parties if the worker is not paid less than the salary and other allowances determined by this law.

Terms of Service Contract

Article Fifteen:

A service contract contains the following terms:

1. Legitimacy of contract.
2. Having an identified subject matter.
3. Non-existence of legal obstacles in the subject matter.
4. Type of work or profession in which the worker will be involved.
5. Salary, rights and allowances of the worker.
6. Working time and hours on the basis of this law.
7. Leaves on the basis of this law.
8. Work place or unit.
9. Date of signing the contract.
10. Duration of contract validity.

Service Contract Preparation

Article Sixteen:

- (1) Service contract is prepared in three copies and after being agreed upon and signed by the parties one copy shall be given to the employee, the second copy will be given to MoLSAMD, and the third one will be kept in the employing agency.
- (2) Service contract of persons below 18 years of age shall be signed by his/her legal representative.

Probationary Period

Article Seventeen:

- (1) The parties to the contract can, with mutual agreement, fix a period as the probationary period of work. During this period that may not exceed three months, either party can terminate the contract by giving a notice to the other. If the contract is not terminated until the end of probationary period, it extends with the same terms and conditions.
- (2) The training period will be added up on the work period of the worker.
- (3) The probationary period for the civil servants will be determined by the relevant legislative document.

Change in the Legal Identity of the Organization

Article Eighteen:

In case of change to the ownership and property of the employing organization (merging into other organizations, confiscation, death of the employer and other circumstances) and change of production or destruction of property or any other incidents that are not anticipated in his law, the rights and privileges of the workers will be regulated by the relevant legislative document.

Non-Performance of the Jobs that are Against the Terms of the Contract

Article Nineteen:

The employing organization cannot ask the employee to perform any other task that is not mentioned in the contract without his/her agreement, except in those cases anticipated in this law.

Temporary Assignment of the Employee for a Job out of the Contract

Article Twenty:

The administration can, irrespective of the provisions included in the service contract, temporarily assign other tasks to the employee in the same office, or in another office in the same locality, in the cases mentioned hereunder:

- (1) in the same office, according to specialty, skill, profession, salary level and other allowances, and without great changes in the terms and conditions of the contract.
- (2) In order to prevent and remove the consequences of natural and unforeseen accidents, unpleasant production incidents and to prevent the assets of the office from being lost.
- 3) In the event of the temporary stoppage of work.

Contract Suspension

Article Twenty One:

(1)The labour contract can be suspended in the event of the reasons mentioned hereunder, and will be in force when the suspension is removed:

1. Performing Military Services.
2. Engagement in the Election process.
3. Temporary stoppage of work.
4. Being under custody and investigation for being accused of committing a crime.
5. Unexpected events.
6. Education.

(2.) The days mentioned in parts (1, 4 and 6) of paragraph (1) of this article can be counted to the service of the worker only if he/she returns to his/her work within one month after completing his/her military service, education, and getting his acquittal from the court.

(3) Suspension period of parts (1, 2 and 6) of this article in private sectors is subject to the agreement of both parties.

Reappointment

Article Twenty Two:

The organization cannot reject the reappointment of the worker after the end of suspension period.

Circumstances of Termination of the Contract

Article Twenty Three:

(1) The contract shall be terminated in the following circumstances:

1. Mutual agreement of both parties
2. Expiration of the definite period of contract by observing paragraph (2) of article 14 of this law.
3. Retirement.
4. Death.
5. Disability that hinders to perform the duties.
6. Cessation of work for more than six months.
7. Dissolution of the organization or reduction in the number of staff.
8. Final conviction to a punishment which prevents continuance of work.
9. Repeated violation after disciplinary warnings.
10. Refusal of worker from work after his reappointment to the previous job.
11. If the probationary period has not been satisfactory.

(2) If the service contract is terminated, the organization is responsible to pay the salary and other allowances to the employee himself/herself and in case of death to his/her legal heir.

(3) Termination of the service contract, except by virtue of part (1) of clause (1) of this article, is permissible only when it is not feasible to transfer the concerned person according to his/her agreement to a similar job in the same organization.

(4) If the service is to be terminated on the basis of circumstances mentioned in paragraph (1) of this article, the organization must inform the employee within one month.

Notification of Termination of Contract

Article Twenty Four:

- (1) The contractual worker can terminate the non-fixed term service contract with a one month written notice to the employer.

- (2) Before the contract expires, the employee can terminate the fixed term contract with or without notice in the following cases:
1. Breach of terms and conditions of the service contract or provisions of this law by the employing institution.
 2. In case the worker suffers from a prolonged and incurable disease, disability or other problems that hinder to continue his/her jobs.
 3. The employee or his/her legal representative based on the provisions included in paragraph (1 and 2) of this article provides a written notice to the Ministry of Labour, Social Affairs, Martyrs and Disabled on termination of the contract to avoid any possible disagreement.

Assistance in Providing Job Opportunities

Article Twenty Five:

- (1) The organization has to provide a list of the workers whose contracts have been terminated based on the provisions mentioned in paragraph (1) of article 23 of this law along with their work experience, specialties, qualifications, working period and skills to the Ministry of Labour, Social Affairs, Martyrs and Disabled and its respective offices in the provinces.
- (2) The organization has to pay the amount of last salary of the grade as an assistance proportionate to the period of service to the workers whose contract have been terminated on the basis of the provisions mentioned in parts (6, 7, 8, and 10) of paragraph (1) of article 23 of this law as the following:
 1. If the duration of work is one year, one month salary with other allowances.
 2. If the duration of work is between one to five years, two months salary with other allowances.
 3. If the duration of work is five up to ten years, four months salary with other allowances.
 4. If the work duration is more than ten years, six months salary with other allowances.

The Right to Pension

Article Twenty Six:

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The pension and other rights of the employees whose contracts are terminated on the basis of provisions of this law are reserved.

Reappointment of the Workers

Article Twenty Seven:

1. If the organization stops operating as a result of unexpected events and its employees become jobless, as it restarts its activities it must reemploy its previous experienced workers in the relevant units.
2. If the workers mentioned in paragraph (1) of this article do not refer to the organization during the time when their posts are announced, the organization can recruit new workers in lieu of them.

Non-Termination of Contract

Article Twenty Eight:

Transfer, termination of contract and resignation of the worker is not permitted during legal paid leave and secondment periods, unless the organization is completely dissolved.

Part Time Contract

Article Twenty Nine:

- (1) In case of immediate need, the organization can contract with retirees, disabled, women involved in household duties or nurturing their children and other persons who have the skills and ability to perform the assigned duties, as part time (part day, part week or output based or performed work).
- (2) The organization cannot make a second contract with the workers or other persons who are already assigned elsewhere at the same agency at the same time.
- (3) The conditions of work and contract, payment and other rights of the workers mentioned in paragraph (1) of this article will be regulated by relevant legislative document.

Chapter Three

Hours of Work

Hours of Work

Article Thirty:

- (1) Hours of work are the time when the worker uses his/her physical and mental power to serve for the organization.
- (2) The normal working period, on average, during one year, cannot be more than 40 hours per week.
- (3) Annual balance of working period, general measure of utilization of working time, starting and ending of the working period of the workers, preparing shift schedule (shift graph) and other affairs related to the work discipline would be determined and organized by the Ministry of Labour, Social Affairs, Martyrs and Disabled.
- (4) The organization by the agreement of the Ministry of Labour, Social Affairs, Martyrs and Disabled, considering the specifications of working hours, can increase or decrease the hours of work during the week, provided that the total working hours in a week do not exceed 40 hours.

Reduction of the Working Hours

Article Thirty One:

- (1) The weekly working hours of employees are reduced, based on conditions, as under:
 - 1) For youths between 15 to 18 year of age, 35 hours per week.
 - 2) For workers engaged in underground work and works that are injurious to their health, 30 hours per week.
 - 3) For pregnant women, 35 hours per week.
- (2) The list of occupations that are hard and injurious to the health and require reduction in the working hours will be prepared and identified by the Ministry of Public Health, the Ministry of

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Labour, Social Affairs, Martyrs and Disabled and the relevant organization.

- (3) The working hours of the teachers, professors, health workers and the like that require reduction shall be regulated according to their own legislative documents by the relevant organizations with the agreement of the Ministry of Labour, Social Affairs, Martyrs and Disabled.
- (4) Reduction in working hours included in paragraph (1, 2 and 3) of this article will not cause any deduction in the salary or other allowances of the employees.
- (5) Ministry of Labour, Social Affairs, Martyrs and Disabled, considering the seasons of the year, the Holy month of Ramadan and weather change (severe cold or heat), can decrease or increase the number of working hours on a daily or weekly basis, provided that the total number of the working hours throughout the year does not exceed the hours anticipated in paragraph (2) of article thirty of this law.
- (6) The organization which operates continuously and the organization where observation of weekly fixed working hours is not possible due to production conditions, the period of working hours by calculation of work hours (monthly, quarterly and six months) through the relevant organization and confirmation of MoLSAMD can be increased and decreased, providing that the total number of work hours do not exceed the hours anticipated in paragraph (2) of article thirty of this law.

Work Hours at Night

Article Thirty Two:

- (1) Work during the night is one hour less than day; for this purpose night means 11 consecutive hours that would be regulated by the MoLSAMD through internal labour rules of the organization.
- (2) The provision mentioned in paragraph (1) of this article does not apply to the following cases:

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1. If reduction in working hours of the employees has been anticipated according to the provision of article thirty one of this law.
2. When it is not possible to reduce hours of work due to working and production conditions (uninterrupted production and shifts according to work schedule).

Night Work Salary

Article Thirty Three:

- (1) Night work salary for administrative and service workers shall be (15) per cent more than original salary per hour and for productive workers (25) per cent more than original salary per hour.
- (2) Conditions and manner of performing night work is regulated by the suggestion of MoLSAMD and approval of Ministerial Council.

Mixed Work Hours

Article Thirty Four:

Mixed working hours means that the worker perform some of the work during the day and some during the night; in this case the worker shall be entitled to additional salary proportionate to the night work according to the provision of article thirty three of this law.

Shift Work

Article Thirty Five:

- (1) Starting and ending of shift works are fixed by the internal rules and procedures of the organization.
- (2) In case of multiplicity of shifts, the workers are changed every week on a rotation basis.
- (3) Assignment of employee in two consecutive shifts is not permitted.
- (4) If the working shift of the worker is wholly or partially at night, he/she shall be entitled to additional wage in accordance with the provision of article thirty three of this law.

Change in Shift Working Hours

Article Thirty Six:

The organization can, observing the provision of paragraph (2) of article thirty of this law, increase or decrease shift working hours considering the specifications of work from (8) hours during normal days or days in which working hours have been fixed less.

Temporary Cessation of Work

Article Thirty Seven:

- (1) If there is an unexpected cessation of the normal working hours at the maximum of one month and the organization has paid its staff, the wasted working hours can be covered after reactivating the work of the organization.
- (2) Working hours in cases included in paragraph (1) of this article cannot be more than ten hours per day and 50 hours per week and the staff are entitled to additional payment in case of additional working hours.

Overtime

Article Thirty Eight:

- (1) Work performed out of the normal hours of work is considered as overtime, which is permitted in the following cases subject to the agreement of the employee and the employer:
 1. For the performance of the work involving essential services for the public welfare.
 2. In order to prevent unexpected incidents of productive and social problems and remove its consequences.
 3. In order to repair machines and equipments that its inactivation would result to cessation

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- of work of a large number of workers.
4. In order to remove unexpected events that may cause stoppage in social services affairs (such as water supply, heating, lighting, canalization, transport, telecommunications, health services and other social services).
 5. .In order to perform the works which have already been started and their stoppage may cause material and spiritual losses.
 6. In order to continue the work the stoppage of which is not possible without the presence of the worker for the next shift; in this case the organization has to take immediate action for the substitution of the worker.
 7. In order compensate the stopped work or the non-performed work included in paragraph (1) of article thirty seven of this law
 8. In order to perform other required work identified by the relevant in charge.
- (2) Overtime hours cannot be more than the average of normal working hours during the day.
- (3) Overtime is not permitted for the night workers, workers engaged in underground works and works injurious to health, pregnant women as well as women with children of less than two years of age.
- (4) Conditions, limits and manner of performing of overtime hours would be regulated considering the requirements of work in the organization in accordance with the relevant legislative document.

Chapter Four

Right to Rest and Leave

Break and Paid Leaves

Article Thirty Nine:

The employees are entitled to break and paid leaves as the following:

- (1) Breaks for prayers and lunch.

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(2) Public holidays (national days and religious).

(3) Annual leave (recreational, sick and necessary or urgent leave).

Work Break

Article Forty:

Work break for prayer and lunch is one hour that is not included in the official work hours and it is regulated by the internal work procedures of the organization.

Public Holidays

Article Forty One:

Public paid leaves are as the under:

1. The weekend (Friday).
2. The first day of the year (Nawruz).
3. Twenty-eight of Asad (the independence day of the country).
4. Eight of Sawr (Victory of the Islamic Revolution of Afghanistan).
5. The First day of Holy Ramdan.
6. The days of Eid-e-Feter (3 days).
7. The days of Arafat and Eid-ul-Adha (4 days).
8. Twelfth of Rabi-ul-Awal, the birth day of Hazrat-e-Muhammad Peace Be Upon Him.
9. Tenth of Muharram-ul-Haram (the day of Ashura).
10. Twenty Sixth of Dalw (withdrawal of former USSR forces from Afghanistan).
11. Other days announced and approved as public holidays by the Islamic Republic of Afghanistan.

Annual Leaves

Article Forty Two:

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Annual leaves (recreational, sick and necessary or urgent) are not included in the public holidays and are enforceable by the organization or the employer based on the request or written notice of the employee.

Work Shift Schedule

Article Forty Three:

- (1) The organization regulates and implements the recreational leave schedule for the employees on a turn basis. If the organization doesn't agree with the employee to take his/her annual recreational leave due to huge work load, the organization has to pay to the employee the salary and other allowances of the recreational leaves in addition to the original salary.
- (2) In the event of the employee's death, the organization has to pay the salary and other rights and allowances of the days included in paragraph (1) of this article to his/her legal heirs.
- (3) Payment of the salary and other allowances of recreational leave are not time-bound and can be paid on the basis of the agreement of the employee and the organization.

Work during the Public Holidays

Article Forty Four:

- (1) Work during the public holidays is allowed by the agreement of the employee and approval of the employer in the following cases:
 1. Working in an organization that operates continuously and stoppage of work causes delay in its activities and creates problems in providing public services.
 2. Performance of work related to public services.
 3. Performance of work that cannot be delayed as urgent repairs, loading and unloading of consignments, and work related to the prevention of unforeseen accidents.
 4. Performance of other urgent works of the organization identified by the relevant responsible person.

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- (2) In cases included in paragraph (1) of this article, the organization has to pay 50 percent of the salary of the normal work as an allowance in addition to the anticipated overtime in this law.

Work in an Agency that operates continuously

Article Forty Five:

- (1) In an agency where work cannot be stopped, the public holidays can be organized on turn basis in the normal days by the in charge.
- (2) In an agency where work cannot be stopped on holidays due to delivery of public services, the agency has to organize another holiday for the employee or pay the equivalent wage and other allowances of other days.

Recreational Leave

Article Forty Six:

- (1) The employees are entitled to twenty days of paid recreational leave in a year.
- (2) The recreational leave of employee can be more than twenty days in the following cases:
1. For workers below 18 years of age twenty five days.
 2. For workers who work in underground or perform deleterious work to health thirty days.

Leave for Lecturers and Teachers

Article Forty Seven:

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(1) Lecturers and teachers who benefit from educational leaves are not entitled to recreational leave.

(2) In case teachers and kindergarten trainers who do not benefit from the leaves included in paragraph (1) of this article, they are covered under the provision of paragraph (1) of article forty six of this law.

Manner of using Recreational Leave

Article Forty Eight:

1. Employee's recreational leave shall be enforceable for twenty days consecutively, and in case of the organization's urgent need it can be transferred to next year by the agreement of the employee.
2. The employee uses the annual recreational leave in turn based on a schedule prepared by the organization with the employee's agreement.
3. Based on the organization's urgent need the employee's recreational annual leave can be used (10) days in each six months.

Recreational Leave for a Newly Recruited Employee

Article Forty Nine:

- (1) A newly recruited employee is entitled to the annual recreational leave during his/her first year of work, when he/she has worked in the office for eleven months.
- (2) The seasonal employees, whose contract periods are not less than three months, can use the recreational leave included in paragraph (1) of article forty six of this law, proportionate to the period of service.

Salary and Other Allowances during the Recreational Leave

Article Fifty:

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- (1) The organization has to pay the salary and other allowances of the employee's recreational leave in advance.
- (2) If the employee has not used the recreational leave and has resigned, dismissed or transferred to other organization or retired, he is entitled to the salary pertaining to the unused leave in proportionate to the period of work performed during the year.

Urgent Leave

Article Fifty One:

- (1) The worker is entitled to ten days urgent leave with pay and other allowances every year.
- (2) Urgent leave for three days is enforceable by sending a notice and more than that period through a written request of the worker and agreement of the organization.
- (3) In case of employee's marriage, death of father, mother, brother, sister, spouse, child, father in law, mother in law, uncle, aunt and birth of child, the employee's urgent leave is enforceable for ten days by a notice.

Sick Leave

Article Fifty Two:

- (1) The worker is entitled to twenty days of sick leave with pay and other allowances in a year.
- (2) Worker's sick leave is enforceable up to five days based on a prior notice.
- (3) If the sickness of the employee continues for more than five consecutive days, a certificate from the doctor of a health organization or if there is no doctor certificate from village council would be valid. If the employee is insured, the certificate of insurance doctor would be valid.
- (4) Sick leave of the worker for more than the period included in paragraph (1) of this article is counted in lieu of his/her other legal leaves.

Additional Sick Leave

Article Fifty Three:

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- (1) If the employee's sickness prolonged for more than the period included in article fifty two of this law, additional paid leave can be granted to him/her based on certificate of government and or nongovernmental health centre.
- (2) The conditions and manner of granting additional sick leave included in paragraph (1) of this article would be regulated by relevant legislation.

Maternity Leave

Article Fifty Four:

- (1) A female worker is entitled to ninety days of paid maternity leave one third of which is used before delivery and two third after delivery.
In case of abnormal delivery or in case of twin or more than a twin, fifteen days more paid leave will be granted to her.
- (2) Salary and other allowances included in paragraph (1) of this article will be paid based on hospital certificates.
- (3) The female employee has to join the office within five days after the expiration of leave period mentioned in paragraph (1) of this article; otherwise she would be considered a lapse of duty and does not benefit from the allowances included in paragraph (2) of this article.

Leave for Hajj Pilgrimage

Article Fifty Five:

- (1) The employee is entitled to 45 days paid leave only once during his entire service period in order to perform Hajj (Mecca) rites or to make pilgrimages to the sacred places.
- (2) The leave in excess of 45 days mentioned in paragraph (1) of this article can be counted as part of the employee's recreational and urgent leaves.
- (3) Certificate of the Department of Hajj and Religious Affairs is required for payment of salary and other allowances of periods included in paragraphs (1 and 2) of this article.

Leave for a Newly Recruited Employee

Article Fifty Six:

The annual sick leave and urgent leave of newly recruited employee will be applicable proportionate to service period as follows:

- (1) If the employee has been recruited in the first half of the year, he/she can use annual leave fully.
- (2) If the employee has been recruited in the second half of the year, he/she can use half of the annual leave.

Calculation of Paid Leave

Article Fifty Seven:

Employee's paid leave is calculated on the basis of his/her promotion and retirement step.

Paid Leave in Non-Governmental Organizations

Article Fifty Eight:

The conditions, terms and manner of enforcement of leaves included in chapter four of this law for the employees of non-governmental organizations, private and joint ventures and foreign organizations in Afghanistan are based on agreement of the employer and employee that is specified in the contract.

Chapter Five

Salary

Payment of Salary

Article Fifty Nine:

- 1) The salary is counted and paid to the employee according to the quantity and quality of work, post, rank, grade or profession, period of training and practical work and other conditions included in work related legislative documents.

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- 2) The employee whose grade and degree is low but he/she is recruited in a higher post based on his/ her merit and qualifications, his/her salary and other allowances is paid based on the post.
- 3) The employee whose grade and degree is higher but due to a reason he/she is appointed in a lower post, his/ her salary and other allowances is paid based on his/her original post.
- 4) Discrimination is not permitted in payment of salary.
- 5) The minimum amount of salary cannot be less than the amount fixed by the Government.

The Monetary Privilege for Education

Article Sixty:

The monetary privilege of the educational certificates/documents and cadre is considered as a part of salary.

Food Allowance

Article Sixty One:

The employee is entitled to food allowance for the fixed hours of day or night on the basis of daily rate which is paid monthly unless it is stipulated otherwise in the contract.

Determination of Salary

Article Sixty Two:

- (1) The amount and conditions of payment of salary for sections of workers, taking into account the provisions included in article fifty nine of this law, are determined as follows:
 1. For government employees and employees of joint organizations in which the government capital share is more than fifty percent , through the Ministry of Finance, Ministry of Labour, Social Affairs, Martyrs and Disabled and Independent Administrative Reform and Civil Service Commission.
 2. For employees of social organizations based on relevant organization's charter.

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3. For employees of non-government organizations, private and joint enterprises and foreign organizations in Afghanistan based on mutual agreement of the parties.
- (2) The amount of salary of employees included in parts (2 and 3) of paragraph (1) of this article, by differentiation of each degree, cannot be less than the minimum amount determined by the government for its employees.

Payment of Salary

Article Sixty Three:

Employees are entitled to receive their salary effective from the date of contract or the date of approval of appointment, unless it is anticipated otherwise in the relevant legislation.

Time to Pay the Salary

Article Sixty Four:

- (1) The employee's salary is paid on the basis of the time of work, monthly, in fifteen days or weekly (hour based payment), or on the basis of the performed work or products (work based payment).
- (2) The payment and allowances of the weekend are equal to the normal working days.

Incentive Pay

Article Sixty Five:

- (1) In order to encourage the employees, enhance productivity of work and improve the quality of products according to the requirements of conditions, the organization may regulate and pay the salary of employees in an incentive way.
- (2) The sample of rules and regulations in respect to payment of incentives would be regulated by the Ministry of Labour, Social Affairs, Martyrs and Disabled in collaboration with the employers and approval of the Ministry of Finance.

Conditions of Adding Supplements to Salary

Article Sixty Six:

- (1) Supplements are added to the original salary in the following cases:
1. Work in regions with unfavourable natural and climate and difficult economic and social conditions.
 2. Underground work and work in difficult conditions deleterious to health.
 3. Work with technical and professional skills.
 4. Other cases anticipated in the relevant legislation.
- (2) Conditions, limits and criteria (norm) of salary supplements included in paragraph (1) of this article and the manner of inclusion of the supplements in overtime and pension is regulated in relevant legislation.

Overtime Payment

Article Sixty Seven:

The payment of overtime per hour is paid 25% more than the normal working hour and in weekend and holidays the payment is 50% more.

Payment for Operating Several Machines

Article Sixty Eight:

- (1) A worker who operates several machines or performs several tasks in the same office is entitled to higher salary.
- (2) Conditions and the manner of payment of work included in paragraph (1) of this article are regulated by relevant legislation.

Work Compensation

Article Sixty Nine:

The work payment of work performed during public holidays is twofold, in case it is not compensated within two weeks as a day off by the agreement of the worker.

Terms and Period of Work

Article Seventy:

Terms and period of work for daily, half day, and half week, product of work or completed work (periodic) is regulated by the relevant legislative document.

Payment of Salary during the Work Stoppage

Article Seventy One:

(1) If cessation occurs in work and products due to unexpected accident or due to technical and production reasons or unfavourable climate conditions, the salary of the worker is paid as the following with the exception of seasonal and daily paid workers:

1. In case of work cessation for two months 100 percent.
2. In case of work cessation for two to four months, 50 percent.
3. After four months, the organization can transfer the worker to another post in the same office or to another office and in case it is not possible, he/she should be introduced to the Ministry of Labour, Social Affairs, Martyrs and Disabled or its agencies in the provinces.

(2) If the employee is transferred due to the stoppage of work included in part (3) of paragraph (1) of this article, the salary of the employee cannot be less than 75% of the monthly salary that the employee received before the stoppage of the work. In case of bankruptcy that is confirmed by the court, the provision included in paragraph (1) of this article is not applicable. If the agency is

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reactivated, the salary included in paragraph (1) of this article can be paid for the employee.

Suspension with Pay

Article Seventy Two:

- (1) In case of organizational retrenchment, decreasing the number of workers or long cessation of work, the worker is in paid suspension condition.
- (2) On paid suspensions, the employees based on periods of their services are entitled to six to twelve months and the contractual workers based on their services are entitled to three up to six months original payment with the allowances.
- (3) At the end of the period included in paragraph (2) of this article, the worker will be on unpaid suspension and he/she would be introduced to the Ministry of Labour, Social Affairs, Martyrs and Disabled.
- (4) Terms and other conditions of paid and non-paid suspension would be regulated by the relevant legislative documents.

Payment of Worker's Salary

Article Seventy Three:

- (1) The salary is paid to the worker or to the person introduced by him/her in writing.
- (2) The salary is paid during the month. The salary payment cannot be delayed without the agreement of the employee.

Deductions

Article Seventy Four:

- 1) It is not permitted to deduct (withhold) from the worker's wage, unless it is provided for by the law.
- 2) Not more than 20 percent can be deducted from the worker's monthly wage including compensations, unless otherwise stipulated in the law.

Travel Allowances

Article Seventy Five:

1. When the employee is sent on local and foreign missions, transferred, seconded, or sent to another place, he/she would be entitled to fares and travel allowances, including per diem and accommodation.
2. Conditions and procedures for the application of instances mentioned in paragraph (1) of this article will be regulated by relevant legislative document.

Chapter Six:

Professional, Technical and Vocational Training and Skill Development of Employees

On the Job Training

Article Seventy Six:

- 1) The organization will provide in-service short and long term training courses individually or in group, especially for the young employees to improve their professionalism experiences and develop their work related skills.
- 2) The Ministry of Labour, Social Affairs, Martyrs and Disabled in collaboration with the respective organization will take necessary measures to establish and develop professional training centers at the capital and in the provinces.
- 3) Training centers of the Ministry of Labour, Social Affairs, Martyrs and Disabled will cover the areas below:
 - I. Training centers for increasing vocational and technical skills of the workers.
 - II. Training centers for technical and professional teachers and instructors.
 - III. Training centers for juveniles and youths who have been deprived from education and need to work.
 - IV. Rehabilitation centers for disabled persons.

Training Conditions

Article Seventy Seven:

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- (1) In case the organization wants to train its employees, it has to pay all its relevant expenses to the training providers.
- (2) Ministry of Labour, Social Affairs, Martyrs and Disabled and other organizations having on job training centers shall facilitate on the job training programs for their employees at the center, provinces and local level.

Period of Job Training

Article Seventy Eight:

- (1) On the job training period cannot be more than two years.
- (2) The duration of the training, hours of practical and theoretical training to the trainees with due regard to the profession or occupation will be determined by the relevant organizations and the Ministry of Labour, Social Affairs, Martyrs and Disabled.
- (3) The trainee, who has completed the training in specified profession or occupation and acquired the ability to perform the work independently will be employed as skilled employee.

Payment during the Training Period

Article Seventy Nine:

- (1) Practical and theoretical trainings during work hours will be undertaken with the same salary and other allowances of the work hours.
- (2) In-service training programmes, upgrading professionalism and skill building of the personnel are drawn up by relevant legislative document.
- (3) The organizations, taking into account the nature and criterion of their work, shall design and adopt separate procedures in accordance with the provisions of legislative document mentioned in paragraph (2) of this article.

Education and Training Opportunities

Article Eighty:

- (1) The organization shall introduce its competent and qualified employees to higher education institutes, professional secondary schools, and vocational and technical training centers in the country or abroad to get higher education.
- (2) The employee, who has been introduced to the institutes of higher education in accordance with paragraph (1) of this article, will be entitled to actual payments and other allowances based on his original post, grade or degree.
- (3) The period during which the employee is getting higher education, as described in paragraph (1) of this article, will be added up to his/her service period only if he/she successfully graduates from the course and or training.
- (4) The employee who has been introduced to higher education institutes by the organization is obliged to work with the same organization after completing his/her education or training for a period equivalent to the duration of education or training or based on their contract. However, if the employee denies working for the same organization after the completion of higher education or training, he/she will have to reimburse the same amount spent for his/her education or training by the organization.

Establishing Training Centers at Industrial organizations

Article Eighty One:

- (1) In order to facilitate the training of employees, the organizations or industrial, production and service centers in agreement with the Ministry of Labour, Social Affairs, Martyrs and Disabled can establish and equip training centers for their employees.
- (2) The organizations with similar training programs can, in collaboration with the Ministry of Labour, Social Affairs, Martyrs and Disabled, establish joint training centers in order to increase skills or vocational and technical knowledge of their employees.

Legislative Documents of Training Centers

Article Eighty Two:

The rules and procedures for the technical and vocational training centers and training centers of the government and non-government organizations and the method of supervision by the Ministry of

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Labour, Social Affairs, Martyrs and Disabled will be regulated by the relevant legislative document.

Qualifications of Trainee

Article Eighty Three:

- (1) The following persons are trainees:
 1. The person engaged in getting training in government or non-government training centers for a fixed period to learn a profession or increase his/her skills.
 2. The employee who gets training on the basis of contract to learn a job specific profession.
 3. Employees who are introduced to the training centers on the basis of request by the relevant organization.
- (2) Conditions and sample contracts of the trainees set forth in paragraph (1) of this article will be prepared by MoLSAMD.

Legislative Document of Professional and Skilled Workers

Article Eighty Four:

Rights and obligations of the skilled workers who are graduated from vocational and technical training centers and professional and technical schools will be drawn up in separate legislative document.

Introduction of the Graduates of the Training Centers

Article Eighty Five:

The government and non-government training centers will introduce their graduate students to the employment service centers at the center and provinces for the purpose of employment.

Practical Work at the Training Centers

Article Eighty Six:

- (1) Industrial, production and educational organizations are obliged to provide practical work

facilities (stage program) for the students of the institutes of higher education and all technical, vocational and profession secondary schools.

- (2) Programs of practical works for the students set forth in paragraph { 1) of this article will be regulated by the relevant institution.

Chapter Seven

Standards and Guiding Rules of Work

Standards and Rules of Work

Article Eighty Seven:

- (1) The standards and guiding rules of work will be developed and regulated by the Ministry of Labour, Social Affairs, Martyrs and Disabled with cooperation of the relevant agencies.
- (2) Authorities of organizations shall define and generalize standards and rules of work for the various sections of workers of their respective functions, in accordance with sample and guiding rules of MoLSAMD and internationally acceptable standards.
- (3) MoLSAMD in cooperation with relevant organizations shall evaluate and coordinate scientific and technical achievements using international standards aiming at improved labour quality and employees' skills.
- (4) Measurement of payment and work performance for optimal planning of production functions and the increase of work efficiency will be carried out on the basis of the work standards and rules mentioned in paragraph (1) of this article.
- (5) Unified and sample standards will be set for similar works in different areas of production and services in consideration with the international standards as well as the current situation of the country.

Evaluation of Work Rules and Standards

Article Eighty Eight:

1. Evaluation and revision of the work rules and standards shall be undertaken by the relevant organization in accordance with the sample standards designed by the organization with the agreement of the Ministry of Labour, Social Affairs, Martyrs and Disabled.
2. The organization has to inform the employees at least two months prior to the application of new rules and standards.

Authorities of Work Standards Related Disputes Resolution

Article Eighty Nine:

If any dispute arises between the organization and the employee regarding to setting of work related rules and standards, the issue will be resolved by the following authorities:

1. In the ministries, state institutions, private and joint enterprises and ventures in which the state share is more than 50%, the authorized authorities with participation of MoLSAMD.
2. In social and cooperative organizations and private and joint sector in which the state share is less than 50%, the disputes will be resolved by involved parties under supervision of MoLSAMD.

Chapter Eight

Work Discipline

Methods of Work Discipline Implementation

Article Ninety:

The employees are required to observe work discipline of the organization. The work disciplines are ensured through the following ways:

1. Establishing conscious relations and attitudes among employees towards the work.
2. Observing and generalizing understanding and satisfying approaches.
3. Motivating the employees to work honestly.

4. Application of disciplinary actions in case of violation.

Obligation of the Organization

Article Ninety One:

The organization has responsibility to ensure a sound working environment in the following areas:

- (1) Create favourable conditions to improve the level of outputs and employees livelihoods.
- (2) Observation of work and production discipline.
- (3) Observation of rules and safety technique at work.
- (4) Interact responsibly to the needs and demands of the employees.
- (5) Observation of the provisions of work related legislative document.

Obligation of the employee

Article Ninety Two:

The employee is bound to observe the following:

1. Job Description.
2. Productive and honest work.
3. Work discipline.
4. Timely execution of legal orders and directives of supervising authorities.
5. Improve work output.
6. Improve output quality.
7. Production and technological rules.
8. Safety rules and working environment hygiene.
9. Protection of moveable and immovable assets of the organization and their efficient and rational utilization.
10. Improve professional skills and using standards defined by responsible authorities.
11. Keep job and profession confidentialities.
12. Sound attitudes with other employees and clients.
13. Avoid disturbing other employees in performing duties and production lines.

Job Descriptions

Article Ninety Three:

1. The method of work is regulated through Job Descriptions (JDs) prepared and approved by the organization.
2. Job Descriptions of joint and private enterprises are regulated according to sample JDs prepared and approved by MoLSAMD and employers.
3. The organization has the responsibility to familiarize its employees with its JDs and ensure their implementation.

Encouragement of Employees

Article Ninety Four:

- (1) The employee will be encouraged and rewarded for performing work in the best possible way, raising work output, improving the quality of products, saving raw materials, using initiative and innovation to improve through following:
 1. Reward in cash or material.
 2. Granting a letter of acclamation.
 3. Granting a letter of appreciation.
 4. Granting a medal or a title.
 5. Other ways of encouragement as described in the relevant legislative document.
- (2) The conditions and manner of rewarding the employees shall be regulated by respective legislative document.

Disciplining Employees

Article Ninety Five:

The following disciplinary actions shall be taken against the employees if they commit violation:

1. Advice or suggestion.
2. Warning.

3. Deduction of payment (wage).
4. Transfer.
5. Termination of contract.

Implementation of Disciplinary Actions

Article Ninety Six:

While disciplining an employee the organization has to bear in mind severity of violation, the circumstances under which violations have been committed, the situation of the person when resorting to violation as well as the employee's service record, conduct and behaviour.

Explanation of Violation

Article Ninety Seven:

1. Disciplinary actions shall be implemented on the employee after explanation of his/her violation in accordance with law.
2. Only one disciplinary action can be applied in each case of violation, this will be issued in writing, and after being registered it will be formally brought to the notice of the offender.

Complaint of the Employee to the Commission

Article Ninety Eight:

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Should the employee consider the disciplinary actions to be unjustified, he/she can lodge a complaint to the Labour Dispute Settlement Commission of the relevant organization presenting reasons and evidences for its being unjustified.

If the Labour Dispute Settlement Commission of the relevant organization does not take any action to remove unjustified disciplinary measures, the employee can complain to the Central Dispute Settlement Commission.

In case the dispute cannot be solved between the involved parties, the issue will be presented to the relevant court.

Recording Reward and Disciplinary Action of the Employee in his/her Personal File

Article Ninety Nine:

Reward and written disciplinary actions mentioned in this law, except advice or suggestions, are recorded in the Employee Record File.

Absence of the Employee

Article One Hundred:

1. If the employee failed to inform in writing the organization about the reasons of his/her absence within three consecutive days, he/she would be regarded as being absent without leave and his/her salary and its supplements and allowances would be deducted for each day.
2. If the employee mentioned in paragraph (1) of this article presents his/her excuses to the relevant organization within 20 days, and if the competent authority of the organization is satisfied that the employee's failure to inform within three days was due to a good cause, then the employee will no longer be regarded as being absent without leave, and his/her days of absence will be considered as a part of his/her legal leave.
3. If the employee's absence is considered unjustified and continues for (10) consecutive days, then the matter will be recorded at his/her file and will not be considered as a part of his/her service period.
4. If the employee comes for his/her duty but leaves without giving any written notice, then his/her one day salary and the allowances will be deducted in lieu of each day of absence from duty provided that his/her absence and leave does not exceed twenty days during the year. Otherwise, the absent days shall not be calculated in promotion and pension of the employee.

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5. The cases mentioned in paragraph (3) of this article shall not hinder the employee's promotion.
6. The absence of the employee after his/her legal leave would be covered by the provisions of paragraph (1) of this article.

Cases of Contract Termination

Article One Hundred One:

Termination of contract as set in part (5) of article (95) of this law will be undertaken in the following cases:

1. Absence for 20 consecutive days without a reasonable ground.
2. In the event of implementing disciplinary actions described in paragraphs (2, 3 and 4) of article 95 for two times through the course of the year.

Suspension of the Employee's Payment and other Privileges

Article One Hundred Two:

1. If an employee is accused of committing any crime, his/her salary and allowances will be suspended while he/she is under arrest, custody, investigation and trial.
2. While the accused employee being under custody, the prosecutor after conducting investigation issues an order not to prosecute him/her, or finds him/her deserved to be disciplined, or after trial he/she is acquitted, he/she shall be paid the salary and other allowances of suspension and trial period unless stipulated otherwise in the contract.
3. If the employee is sentenced to custodial imprisonment, the employee is not entitled to salary and other allowances during custody, detention and trial.
4. If the employee is sentenced to probationary imprisonment, he/she is entitled to salary and other allowances. Promotion of the employee who is sentenced to probationary imprisonment shall be delayed until the end of suspended period.
5. If the employee is sentenced to both probationary and custodial imprisonment, the paragraph (3) of this article is applicable for custodial imprisonment and the paragraph (4) of this article is applicable for probationary imprisonment.

Chapter Nine

Financial Responsibility of Employees

Prevention from Financial Loss

Article One Hundred Three:

1. The employee is obliged to assume a responsible attitude towards the properties and assets of the organization and to take maximum possible measures to prevent any damage to them.
2. The organization is obliged to provide safe working conditions for employees and to ensure full protection of assets used by employees.

Responsibility of the Employee for the Financial Loss

Article One Hundred Four:

1. The employee will be held responsible for the damage sustained by the organization during the work period only when the damage has been the result of his/her fault.
2. The employee will not be held responsible for the probable damages arising from the ordinary progress of work.

Compensation of Financial Loss

Article One Hundred Five:

If the damage sustained by the organization is due to the fault of several employees, then the amount of compensation therefore will be determined separately for each employee in proportion to the type and degree of his/her responsibility.

Legislative Document on Financial Responsibility

Article One Hundred Six:

The kinds and degree of financial responsibility for the damage sustained by the organization, the method of measuring and assessing the damage and the arrangement of compensation therefore, will be determined by relevant legislative document.

Chapter Ten

Ensuring Health and Occupational Safety Conditions

Ensuring Health and Safety Conditions

Article One Hundred Seven:

The organization has the responsibility to ensure hygienic and safe working conditions, utilization of safety instruments in order to prevent any accident related to work and production, and ensure hygiene in order to prevent occupational diseases.

Observing Safety Techniques in Construction Work

Article One Hundred Eight:

- (1) The organization has to provide and ensure occupational health, safety conditions and safe technical equipments in order to prevent accidents due to work and production, and bring about health conditions as a means of protection against occupational diseases.
- (2) The organization must build and equip rooms, buildings and areas for employees according to safety rules and standards and environmental hygiene conditions.

Ensuring Safety Techniques in Construction Work

Article One Hundred Nine:

Utilization of new productive buildings and the organizations that are reconstructed are only allowed to be put in operation after the agreement of the Departments of Technical Monitoring and Hygienic Environment.

Enacting Legislative Document

Article One Hundred Ten:

1. The major criteria for maintenance and safety techniques are regulated by respective legislative document.
2. The major standards and rules for maintenance and safety on National Economic Sections will be implemented by the organization in accordance with the sample standards and rules designed and approved by MoLSAMD in cooperation with the employers.
3. Hygiene and production hygiene standards in National Economy divisions and professions are designed and regulated by Ministry of Public Health and MoLSAMD in cooperation with the employers.

Training on Safety Technique

Article One Hundred Eleven:

1. The person in charge of the organization is obliged to give continuous training to employees about safety, health, first-aid service and firefighting rules and techniques, as well as other employee protection rules.
2. The employees are obliged to observe the rules and standards of work protection and the safety techniques, rules for utilisation of equipments, protection instructions, and to use individual protective devices while working.

Providing Safety Technique Equipments

Article One Hundred Twelve:

1. Where the work carried out is under conditions harmful to health or under special temperature or refrigeration or where there is the likelihood of contamination of employees, special clothes and footwear, masks, eye glasses, gloves and other protective devices as well as preventive and curative foods will be put at the disposal of employees free of charge.

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2. The organization is responsible for supplying, maintenance, cleaning, sterilisation, drying and repair of special working clothes and other protective devices.

Medical Examination of Employees

Article One Hundred Thirteen:

1. Those employees who are engaged in arduous work, in types of work carried out under conditions that are harmful to health and also driving vehicles constantly must undergo periodic health and medical examinations during the service period in order to see that they are fit for work and to prevent occupational diseases.
2. The employees and personnel of food material industries, public catering, purchase and selling of food materials, as well as the employees and personnel of water supply installations, preventive and curative institutes, organizations concerned with children and organizations concerned with public works must undergo the medical examinations provided in paragraph (1) of this article.
3. The conditions and the manner of the medical examinations of employees mentioned in paragraph 1 and 2 of this article will be drawn up and set by the Ministries of Public Health, and Labour, Social Affairs, Martyrs and Disabled.

Providing Medical First Aids

Article One Hundred Fourteen:

(1) In the events of occurrence of work related unpleasant accidents and unexpected diseases, the organization is obliged to:

- a. Provide medical first aid and conditions;
- b. Transfer the affected employees to medical centres and provide treatment;
- c. Transfer the employee to his/her residence as he/she recovers from illness.

(2) If the treatment of the employee mentioned in paragraph (1) of this article is not possible inside the country, the organization must send him/her to one of the foreign countries for the purpose of treatment.

(3) The financial expenses of the employee mentioned in paragraph 1 and 2 of this article

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and of accompanying person, including their round trip expenditures must be ensured from the organization's budget.

Establishment of Fixed and Mobile Medical Centers

Article One Hundred Fifteen:

The organization with due regard to the number of employees and personnel and in accordance with the standards set by the Ministry of Public Health in agreement with the Ministry of Labour, Social Affairs, Martyrs and Disabled, shall establish fixed and mobile centers to carry out, to the possible extent, medical examinations and provide first aid services to the employees and their family members.

Assigning the Employees According to Their Health Status

Article One Hundred Sixteen:

- (1) If the employee's status of health requires that he/she should be engaged in lighter work, then based on a medical certificate, the organization, subject to the employee's consent, will temporarily or permanently assign him/her lighter works.
- (2) Payments and entitlements of the employee mentioned in paragraph 1 of this article shall be made according to his or her last rank or grade and other entitlements of his/her previous job.

Providing Job Opportunities for Disabled Persons

Article One Hundred Seventeen:

1. The organization has the responsibility to provide jobs for the employees who have become disabled while performing their jobs, after their disability is confirmed.
2. The payments and other entitlements of the disabled employees cannot be less than the

payment of last rank, grade or degree before his/her disability.

Identifying Unpleasant Incidents in the Work Field

Article One Hundred Eighteen:

- (1) The person in charge of the organization is duty bound to investigate and assess statistically the unexpected incidents in work and production, analyse and evaluate the factors and provide one copy of the report within three days to the MoLSAMD and one copy to the employee.
- (2) Should the organization refuse to provide the report or the victimized party is not satisfied from the report, then the victimized party can complain to the Ministry of Labour, Social Affairs, Martyrs and Disabled.

MoLSAMD shall take decision on the complaint of the victim according to the provisions of law.

- (3) The organization has to compensate any medical damage sustained by the employee in the course of work.

List of Occupational Diseases

Article One Hundred Nineteen:

1. List of occupational diseases shall be prepared and determined by the MoPH in cooperation with MoLSAMD and the relevant organization.
2. The amount of, and the arrangement for, the damage to be paid for disability and health injuries arising from work as well as measurement of violations of the occupational health and safety conditions and work environment hygiene rules mentioned in this law, are made and fixed by relevant legislative document.

Chapter Eleven

Women and Youth Work

Instances of Not Recruiting Women and Youth

Article One Hundred Twenty:

It is not permissible for women and youth to be engaged in types of work that are physically arduous or harmful to health or carried out in underground sites. List of these types of works shall be prepared and approved by MoPH, MoLSAMD and the respective organizations.

No Assignment of Night Duties to Women and Youth

Article One Hundred Twenty One:

The organization is not authorized to assign women and youths to night duties.

Assigning women and breast-feeding mothers based on their agreements, in hospitals, health clinics and for duties that would require urgent needs, in shift and under a proper schedule is exempted from this provision.

No Overtime for Women and Youth

Article One Hundred Twenty Two:

1. Pregnant woman, woman with child less than two years of age and youth cannot be assigned to do overtime work and to travel in order to do official work.
2. Assigning woman having child of less than 2 years of age to overtime work and travel in order to perform official work is not allowed without her prior consent.

Assigning Work Pregnant Women

Article One Hundred Twenty Three:

During the period of pregnancy on the basis of a doctor's or hospital's certificate, women will be assigned to lighter work with full payments.

Additional Time for Breast-feeding Mothers

Article One Hundred Twenty Four:

1. In addition to their rest and lunch breaks, nursing mothers should be provided with 30 minutes break every three hours in order to breast feed their babies in the children room at the worksite. These breaks are included in the working official time.
2. The break for breast-feeding set forth in paragraph 1 of this article will be drawn up and decided by the internal rules and procedures of the organization.

Not Rejecting the Pregnant Women to Work

Article One Hundred Twenty Five:

It is forbidden to refuse employment of women or to reduce their payments because of pregnancy or nursing (feeding) their children.

Establishment of Kindergartens

Article One Hundred Twenty Six:

1. The organization must establish and equip kindergartens and nurseries for the children of relevant employees within the organization compound.
2. Bringing up children, conditions for their acceptance and their trainings in kindergartens will be regulated by the relevant legislative document.

Young Employee Characteristic

Article One Hundred Twenty Seven:

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1. The young employee is the person who has completed 14 years of age but has not attained 18 years of age.
2. Prior to the employment of youth, the organization must send him/her to the medical center and attach his/her medical check-up with the personal file.

Medical check-ups of the youth (young employee), at least once a year should be undertaken by the organization on its expenses.

Medical Examination of the Young Employee

Article One Hundred Twenty Eight:

The organization, through the medical centres, has to diagnose the physical capacity and health of the young employee and determine his/her tasks and responsibilities.

Young Employees' Payment

Article One Hundred Twenty Nine:

1. The payment of young employee would be made at the same amount as the employee of 18 years of age or above, with due regard to rank and grade, but regardless of the reduced working time included in article (31) of this law.
2. Payment of each working unit of the employee who is less than eighteen years of age is equal to an employee who is eighteen years old and above.
3. The payment for difference of reduced working hours shall be made to the younger employee based on his main grade.

Standard of Production of Young Employee

Article One Hundred Thirty:

1. Production standard of young employee will be organized on the basis of the production standard of the employees of 18 years of age proportionate to reduced working hours included in article (31) of this law.
2. The organization, can temporarily determine production standard less than original

standards for the newly employed youth who is employed just after completion of training.

Chapter Twelve

Work Related Disputes

Primary Steps for Resolving Work Related Disputes

Article One Hundred Thirty One:

1. Disputes arising from work between organization or employer and employee or trainee, can be settled by the direct communication between the organization and the employee or trainee, on the basis of the provisions of this Law, relevant regulations and service contracts.
2. If the work related disputes cannot be resolved by the organization and employee or trainee, at first instance it should be resolved through Dispute Settlement Commission of the organization, and if not, then at second instance the issue will be resolved by the High Commission of Work Related Dispute Resolution, otherwise the issue will be decided by a competent court.

Illegal Dismissal of Employee

Article One Hundred Thirty Two:

If the employee is dismissed illegally, and re-employed to the previous job after decision of the Dispute Settlement Commission or court decision, his/her payments and other allowances of dismissal period shall be made as per average salary and other benefit of the last six months prior to dismissal.

Enacting Legislative Document for Dispute Resolution

Article One Hundred Thirty Three:

The issues for establishment and composition of work related Dispute Settlement Commissions and addressing work related disputes will be regulated by the relevant legislative document.

Chapter Thirteen

Social Securities

Kinds of Social Securities

Article One Hundred Thirty Four:

1. Based on the relevant legislative document the employees and in some cases their family members can benefit from the following social securities:
 - A. Food allowance;
 - B. Transportation means;
 - C. Aid in finding shelter;
 - D. Medical services;
 - E. Financial aid at the retirement arising of old age, completion of employment period and work related disability and sickness equal to 10 months of salary along with its allowances and supplements as per the last monthly salary;
 - F. Aid for giving birth;
 - G. Financial aid for the deceased employee's family for burial ceremony equal to 10 months salary along with its allowances as per the last salary;
 - H. Pension for retirement on the basis of old-age, completion of employment period, illness, disability and other conditions anticipated in relevant legislative document.
2. Assistance mentioned in paragraphs (1-7) of this article is made from the organization's budget and the amount of pension mentioned in paragraph (8) of this article will be paid from pension fund.
3. Medical services or their equivalent shall be provided to the employee and his/her family members according to financial capacity of the organization.

Fulfillment of Social Securities

Article One Hundred Thirty Five:

1. Social securities will be ensured through financial participation of the organization and employees.
2. The level of social securities of the employees will be raised along with development and growth of national economy.

Centers of Social Securities

Article One Hundred Thirty Six:

The manner of establishing and equipping Social Securities Services Centers and the methods of their performance will be drawn up by relevant legislative document.

Financial Assistance to the Employees Unable to Work

Article One Hundred Thirty Seven:

The organization will provide financial assistance to the employee on account of his/her inability to work temporarily and until he/she becomes able to work, or the employee who has retired due to disability. The assistance will be equivalent to the original monthly payment and other entitlements.

Retirement Conditions

Article One Hundred Thirty Eight:

1. The employee gets retired after the completion of sixty five years of age. In case of urgent need, the organization can extend working period of those employees who can work for another (5) years, subject to their agreement. The extended period bears the same rights and obligations for the employee.
2. The organization asks the employee mentioned in paragraph (1) of this article for the approval of his/her extension period each year before retirement.
3. The total working period of employee is forty years, and he/she will be entitled to the salaries of the last position, rank or grade.
4. Age of the employee at the time of retirement will be determined from the employee's personal record.
5. Retirement and extension of working periods of cadres of higher education institutions,

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scientific research agencies, and employees of religious affairs will be regulated by respective legislative document.

Heavy Work Retirement Standard

Article One Hundred Thirty Nine:

1. Working period of the employee assigned for heavy work is calculated one year less for every five years, and for working in underground or hazardous conditions two years less for every five years as per standards mentioned in clause 3 of article 138 of this law
2. Standards and rules of heavy and injurious work to health will be defined by MoPH and MoLSAMD in cooperation with the relevant organization or employer.

Request for Retirement

Article One Hundred Forty:

The employee is entitled to request his/her retirement before reaching compulsory retirement age.

Pension of Disability or Death

Article One Hundred Forty One:

Pension of work related disability or death and occupational disease or its related death shall be paid as hundred percent of the salary of the last rank or grade before retirement as per the certification of Medical Committee on Disability without considering service period.

Retirement as Based on Court Decision

Article One Hundred Forty Two:

1. When an employee is sentenced to less than 2 years of imprisonment by the final decision of a competent court, he/she can request his/her retirement.
2. The employee who has been sentenced to 2 or more years of imprisonment by the final decision of a competent court, he/she shall be forced to retirement.
3. Re-employment of the employee mentioned in clauses 1 and 2 of this article after releasing from jail can be undertaken in accordance with the provisions of law and agreement of the relevant organization.

Selection of Pension

Article One Hundred Forty Three:

1. If the employee is entitled to various kinds of pensions from various sources, then the pension payments can be done only from one source selected by the employee.
2. Those who are under guardianship of the retired person deserved to pension from various sources can benefit from all pensions.

Increment of Pension

Article One Hundred Forty Four:

1. Pension of the retired employees and those who are under guardianship of the deceased person is increased according to general increment of the salary.
2. General increment in salary is applicable to retired employees of the respective function.

Chapter Fourteen

Miscellaneous Provisions

Labour High Council

Article One Hundred Forty Five:

1. The Labour High Council established in MoLSAMD is the highest decision making body on labour- related issues.
2. Organizational structure, functions and competencies of the Labour High Council will be regulated by respective legislative document.

Monitoring and Guidance of Labour

Article One Hundred Forty Six:

1. Continued monitoring and guidance for observing labour related laws, safety measures, heavy and hazardous duties, working times, payments and other allowances and conditions of works of the employees will be conducted by the Monitoring and Guidance Authority of MoLSAMD.
2. Issues related to labour monitoring and guidance in the organizations will be regulated by respective legislative document.

Participation of Employees in Labour Unions

Article One Hundred Forty Seven:

1. Workers and employers unions are social organizations that are established through voluntary participation of respective classes in accordance with provisions of social organizations law.
2. Unions mentioned in paragraph 1 of this article cannot be financed or subsidized by the government or political organizations.
3. The employees have the right to participate in these unions.

Participation of Employees in Production and Development Affairs

Article One Hundred Forty Eight:

1. The employee has the right to participate in production development, social services, cultural and livelihood discussions and give his/her suggestions for improvement.
2. The organization has the responsibility to ensure participation of the employee in leadership and development of work and production, and address his/her suggestions and inform him/her regarding the decisions taken.
3. The organization has the responsibility to provide suitable conditions for cultural and sports activities for the employees.

Dismissal of Employees in Group

Article One Hundred Forty Nine:

1. Government, non-government, joint ventures and private entities are not authorized to dismiss all or a group of their employees without approval of MoLSAMD, unless provided by law.
2. In case of long work stoppage that results in closing down the organization, it must inform the MoLSAMD three months in advance.

Dispatching Employees Abroad

Article One Hundred Fifty:

Ministry of Labour, Social Affairs, Martyrs and Disabled, in accordance with the relevant legislative document, can send Afghan employees to overseas in order to prevent unemployment and achieve better income.

Establishment of Private Employment Agency

Article One Hundred Fifty One:

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1. Establishment of Private Employment Agency is authorized after approval of MoLSAMD.
2. The authorities of Private Employment Agencies have the responsibility to regulate all of their activities as per their agreement with MoLSAMD.

Body of Drafting Labour Legislative Documents

Article One Hundred Fifty Two:

Ministry of Labour Social Affairs, Martyrs and Disabled, for better implementation of this law, shall draft and process the regulations in cooperation with respective organizations.

Enforcement

Article One Hundred Fifty Three:

This law shall be enforced and published in the Official Gazette from the date signed by the President, and with its enforcement the Labour Law published in Official Gazette No (790) dated 22 Rajab 1420 Islamic Lunar calendar (November 01, 1999) shall be abrogated.

ISLAMIC REPUBLIC
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Extraordinary Issue
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