

## EMPLOYMENT ACT 1995

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A.

EMPLOYMENT ACT, 1995  
(Act 2 of 1995)

An Act to revise and consolidate the law relating to employment.

ENACTED by the President and the National Assembly

PART 1 – PRELIMINARY

1. This Act may be cited as the Employment Act, 1995 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint. short title  
and  
Commence  
ment

Interpretation 2. In this act–

“allowance” means a wage payable to a trainee;

“business” means any trade, industry or commercial activity, service or any part thereof;

“casual worker” means a person, engaged by the day and from day to day who is paid on a daily basis and whose engagement by one and the same employer does not exceed consecutive days customary in the business in which the worker is engaged;

“Chief Executive” means the person acting or discharging the functions of such office in the Ministry or, as the case maybe, the Department responsible for the administration of this Act;

“competent officer” in relation to any matter under this Act means a person authorised by the Minister to act in respect of that matter and means also the Minister wherever the Minister thinks it fit to act in person in respect of any matter;

“consecutive employment” means employment by the same employer for a minimum of 4 hours, or , irrespective of the period of work, a minimum of 3 days, a week;

“continuous employment” means consecutive employment for an unlimited period;

“domestic worker” means any person serving in, or attached as a worker to, a private household;

“employer” means a person having a worker in the employ of that person or, where that person is absent from Seychelles, the accredited representative in Seychelles of that person, and, other than in Part III, means also the manager, agent or other responsible person acting on behalf of the employer;

“employers’ organisation” means a trade union of employers registered under the Industrial Relations Act, 1993 and includes a federation of such trade unions;

“employment agency” means the business of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them;

“Employment Advisory Board” means the board established by the Minister under Section 73;

“EmploymentService Bureau” means the Employment Service Bureau established under section 5;

“fixed-term” in relation to a contract of employment and subject to Section 19 (2), means a term exceeding the period of which is expressed by reference either to the duration in time or to the duration of a specific scheme or project or of specific works;

“fixed term contract” means consecutive employment for a fixed term;

“grievance procedure” means the procedure laid down in Part II of Schedule 1;

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“harassment” means any such unfriendly act, speech or gesture of one person towards another person that is based on the other person’s age, gender, race, colour, nationality, language, religion, disability, HIV status, sexual orientation or political, trade union or other association, or otherwise, as would adversely affect the other person’s dignity or make that person feel threatened, humiliated or embarrassed;

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006

“mandatory wage” or mandatory allowance” means the statutory mandatory wage or mandatory allowance, supplemented by an increment earned, prescribed in

“wages” means the remuneration or earnings, however calculated, expressed in terms of money payable to a worker in respect to



- (3) Where provision is made under this Act for the hearing and determination of any matter in relation to a contract of employment to which this Act applies, any remedy or relief granted under the Act in respect of that matter shall, subject to the supervisory jurisdiction of the Supreme court, be binding on the parties to the hearing or determination.

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PART II –

- (2) Where the Minister directs the Employment Services Bureau to be an employment agency, the other provisions of this Part relating to an employment agency shall not apply to the Employment Services Bureau while carrying on an employment agency.
- (3) The Employment Services Bureau shall issue to each person registered under subsection (1)(c) a job card in such form as the Minister may direct.

\*Employers to notify Employment Services Bureau of vacancies 5A. An employer shall, whenever a vacancy occurs in the employer's establishment notify that fact, and when such vacancy is filled, the fact that it has been filled, to the Employment Services Bureau.

Employment Agency to be licensed Cap.113 6. No person shall carry on any employment agency unless the person is the holder of a licence granted under the Licences Act to carry on such an agency.

Licensed employment agencies to be a body corporate 7. An employment agency shall, on the grant of a licence to carry on such an agency, be a body corporate.

Register of applicants seeking employment through an employment agency 8. (1) An employment agency shall keep a register in which it shall enter the particulars of all persons applying to the agency for the purpose of finding employment and specified in subsection (2) .  
(2) There shall be entered in the register kept under subsection (1) the following particulars in relation to each person applying for the purpose of finding employment

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\*Amended/Introduced by Act 8 of 1999  
\*\*Amended/Introduced by Act 4 of 2006

- (a) the name, address, date of birth, nationality, the national identity number and the job card number (if any) of the person;
- (b) particulars of skills or qualification held by a person;
- (c) nature of employment sought by such person;
- (d) particulars of any previous employment held by such person;
- (e) any other prescribed particulars.

Register of  
Vacancies

9. (1) An Employment Agency shall keep a register of vacancies in respect of employers who seek its services.
- (2) Any employer who seeks the services of an employment agency for supplying the employer with a work or

- (6) Where an employer has employed any person from among the persons whose names have been submitted by the employment agency under subsection (4) (b) or (5) the ~~employer~~ shall inform the agency the name, and such other particulars of the person employed as it is required by the agency and forward the job card (if any) of that person to the Employment Services Bureau.
- (7) The employment agency shall enter in the ~~register~~ of vacancies the name and other particulars of any person in respect of whom information has been suq(e)5q(e)5q(e)5q(e)5q(e)5q(e)5q(e)5q(e).

- (c) the names and other particulars of workers employed in respect of whom information has been supplied under section 9 (6), during the month in respect of which the ~~return~~, is submitted.
- (2) Where in respect of a month for which the employment agency is required to submit a return under subsection (1), the employment agency has not registered any person or vacancy or received any particulars of persons employed it shall submit to the Employment Services Bureau a nil return for that month.
- Accounts 13. (1) An employment agency shall keep proper accounts and proper records in relation to the accounts and shall prepare in respect of each financial year a statement of accounts in such form as shall comply with the best commercial standards.
- (2) The accounts and statement of accounts of an employment agency shall be audited by an auditor appointed by the employment agency.
- (3) An employment agency shall within 30 days ~~after~~ accounts and the statement of accounts are audited under subsection (2), submit to the Employment Services Bureau the statement of accounts and the auditor's report thereon.
- Rights of entry for examination and inquiry 14. A competent officer may
- (a) at any time enter any office of an employment agency and make any examination or inquiry which the officer considers necessary in order to satisfy the officer that the provisions of this Part are being complied with and may take extracts or make any copies from any register or other documents kept by the agency;
- (b) require the production by an employment agency for the purpose of any examination or inquiry by that officer of any register or other document kept by the employment agency.
- Regulations in respect of employment agencies 15. The Minister may make such regulations as may be necessary or required for the proper functioning of an employment agency.
- Self-employed workers 16. (1) Every self-employed worker shall furnish to the Employment Services Bureau such particulars as may be prescribed.

- (2) The Employment Services Bureau shall in a register kept by the Bureau enter the particulars furnished under subsection (1).
- (3) Where a person, being a self-employed worker ceases to be a self-employed worker or obtains employment under an employer, such person shall within 15 days after ceasing to be self-employed worker or obtaining employment under an employer inform the Employment Services Bureau of such occurrence, and furnish to the Bureau such particulars as may be prescribed.

Job Card  
\*

- 17. (1) Every unemployed Seychellois seeking employment and every employed Seychellois seeking alternative employment shall furnish to Employment Services Bureau the particulars specified in subsection (2) and obtain from Employment Services Bureau a job

Restriction 18. (1) Subject to the Immigration Decree, an employer in  
Of Seychelles shall not employ a Seychellois unless

PART III – CONTRACTS OF EMPLOYMENT

Contracts of 19. (1) A contract of employment may be a contract  
Employment



- (i) the names of the employer and worker;
- (ii) the nature of the employment;
- (iii) in the case of a fixed term contract, either the term or the specific scheme or project or specific work on which the worker is to be engaged, as the case may be;
- (iv) in the case of a contract of continuous employment, the probation period, if any;
- (v) the place where the work is to be performed;
- (vi) the remuneration of wages to be paid and the periods of payment and any other benefits the worker is to receive;
- (vii) the number of working hours per week;
- (viii) requirement for overtime work, where applicable;
- (ix) such other particulars as may be prescribed;

(d) subject to subsection (3), be signed and marked by the parties to the contract.

- (2) The employer shall retain one copy of the contract of employment and give the other copy of the contract to the worker.
- (3) Where a party to the contract is illiterate, the contract shall be read and explained, and attested on behalf of the party, by a witness whose signature, full name and address shall appear on the contract.

Contracts 22. (1) Notwithstanding section 21, contracts of employment Of Employment (Outer Island) for work on an outer island shall be for such period as may be determined by the parties to the contract and shall be

\*\* (a) reduced to writing by the employer and contain the particulars specified in section 21 (1) (c);

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006

(b) in duplicate and;

(c) subject to subsection (2), signed or marked by the parties.

(2) Where a party to the contract is illiterate, the contract shall be read and explained and attested on behalf of the party by a witness whose signature, full name and address shall appear on the contract.

(3) The employer shall retain one copy of the contract and give the other copy to the worker.

Detention  
Of worker  
Beyond  
period of  
Outer Island  
Contract

23. Where a worker is detained on an outer island for a period of up to one month beyond the date of expiry of the contract of the worker, the contract is deemed to be extended for that period but after a month has elapsed, the obligations to work ends but the worker remains entitled to the pay stipulated under the contract and to all benefits thereunder until the worker returns to the home island of the worker or, where the home island is not Mahe, to Mahe.

Contracts  
For Casual  
Work

25. (1) A contract for the employment of a casual worker is not required to be in writing.

(2) An empl(g)1(n)21(a)5(t)-1(u)1(r)-6 in43A2 0 rg 1.002 8t,0 0 W8 0 rg 1.0

#### PART IV – TRAINEES

- Trainees
27. The following persons are deemed to be trainees
- (a) persons employed as trainees on an employer's training scheme in respect of the whole period of their training;
  - (b)

Benefits

31.



Workers as 37.  
privileged  
creditors  
Cap. 33

Notwithstanding any other written law, privileges and rights in respect of wages of servants under Articles 2101~~4~~ and 2105 of the Civil Code extend to-

- (a) the wages of all workers;
- (b) their holiday pay;
- (c) payment in lieu of notice due to them upon termination of employment; and
- (d) compensation due upon termination,

up to an amount of R30,000, or any larger amount prescribed, in respect of any one claimant.

\* Absconding 38.  
Employer

(1) Where an employer or former employer of any worker is ~~to~~ to leave Seychelles or to alienate his property or to do any other act

(a) without having paid or made satisfactory arrangements to pay

- (i) any wages due to the worker; or
- (ii) any other moneys owed by the employer or former employer to the worker; or

(b) with the intention, as may be presumed from the circumstances surrounding the business or finances of the employer or former employer, of foregoing the obligation, past or future, to the worker under this act,

then, unless the employer or former employer furnishes sufficient and good security for 0 1 372(e)5(3BT /F2 14c)5(i)-Tf 0 0 0 rg gf 0 0 0 T

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(1A) It shall be lawful for a competent officer, for the purpose of making an application under subsection (1), to require by written notice any airline or travel agency to furnish the competent officer with such information as may be specified in the notice in respect of any travel arrangement made by any person and it shall be the duty of such airline or travel agency to comply with the requirement of such notice.

(2)

## B. REGULATION OF WAGES AND CONDITIONS OF EMPLOYEMENT

Regulations  
Relating to  
wages and  
condition of  
of employment

40. (1) The Minister may, after consultation with the unions, the employer's organisations and such other representatives of workers of any category who are not members of any Union whom the Minister considers it fit to consult, make regulations prescribing-
- (a) the statutory wages to be paid to workers by employers in accordance with subsection (2) ;
  - (b) the conditions of employment to be provided for workers by employers.
- (2) Regulations under subsection (1) (a) may
- (a) prescribe a national minimum wage for workers, other than trainees, and mandatory wages in respect of such workers or category of such workers or in relation to any business;
  - (b) provide for increments and the conditions under which they may be awarded or withheld;
  - (c) prescribe allowances for trainees;
  - (d) authorise benefits or advantages provided by the employer which may be reckoned as payment of wages by the employer in lieu of payment in cash and define the maximum value to be attached to them;
  - (e) provide for any other matter in respect of wages.
- (3) Regulations under subsection (1) (b) may prescribe
- (a) the maximum permissible number of hours of work, normal and overtime, in any day or week, rest periods and the number of consecutive hours of rest to which a worker is entitled;
  - (b) the number of days of annual leave, maternity leave, sick leave, leave for the purpose of fulfilling or in connection with any civic duties or unpaid leave and the conditions under which such leave may be granted;
  - (c) extra rates of payment or time off in lieu of overtime, work on Sundays and other public holidays and exceptions therefrom;



- (d) the maximum sum which an employer may deduct from the wages to be paid to a worker in respect of the cost of food or housing or both food and housing provided by the employer;
- (e) conditions attaching to the employment of women, trainees and disabled persons;
- (f) maternity protection benefits;
- (g) facilities to be granted to the worker for training or for social, sport and cultural activities;
- (h) generally improved living and working conditions.

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|-------------------------------------|-----|--|
| Calculation<br>Of wages             | 41. | <ul style="list-style-type: none"> <li>(1) Subject to subsection (2) and unless regulations made under subsection (3) otherwise provide, wages are calculated on an hourly basis</li> <li>(2) Wages may be calculated on a task or a piece work basis wherever the Minister is satisfied that such calculation will encourage productivity, but where wages are so calculated, the worker shall not receive less than the national minimum wage.</li> <li>(3) The Minister may, by regulations, prescribe the manner of computing wages either generally or in respect of any class of category of workers.</li> </ul> |
| Deduction<br>For food<br>Or housing | 42. | <ul style="list-style-type: none"> <li>(1) Where a maximum sum to represent food or housing or both food and housing <del>is</del> has been prescribed, the employer may deduct from the worker's wages, if in excess of the national minimum wage, in payment therefore <ul style="list-style-type: none"> <li>(a) the maximum sum prescribed;</li> <li>(b) the actual cost of the food or housing or of both <del>food</del> housing; or</li> <li>(c) the difference between the worker's wages and the national minimum wage,</li> </ul> <p>whichever is the less.</p> </li> </ul>                                  |

(2) Where no sum has been prescribed under subsection (1), no deduction from the worker's wages is allowed in respect of food or housing or both food and housing except with the written approval of the competent officer.

Effect and enforcement of regulations

43. The statutory wages prescribed under section 40 (1) (a) and the conditions of employment prescribed under section 40 (1) (b) are deemed to be part of every contract of employment to which they relate, whether the contract was entered into before or after the commencement of this Act save that

(a) where the contract is entered into before the commencement of this Act

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46A (1)

a worker on the grounds of the worker's age, gender, race, colour, nationality, language, religion, disability, HIV status,

- (a) a contract of employment should not be terminated, the contract shall continue to have effect;
- (b) a contract of employment may be terminated and the cause of the termination is ~~now~~ attributable to the worker, the employer shall pay to the worker compensation calculated at
  - (i) the rate of one day's wage for every month of service in the case of contracts of continuous employment;
  - (ii) double the rate in ~~sub~~paragraph(1) in the case of fixed term contracts;or
  - (iii) such higher rate as may be prescribed;
- (c) a contract of employment may be terminated and the cause of the termination is partly or wholly attributable to the worker, the employer shall pay to ~~the~~worker a lesser rate of compensation than at paragraph (b) or none, as the competent officer may assess.

(3) The reference to every month of service in subsection (2) (b) (i) includes service with a previous employer where the service is continued by ~~th~~ new employer without termination by the previous employer.

(4) For the purpose of computing compensation under subsection (2) (b) or (c)–

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the ownership of the assets of the undertaking are transferred or not, the first mentioned employer shall be deemed to have terminated the contract of employment of the workers immediately before the date of transfer subject to subsection (2).

- (2) The termination of employment of such workers shall be deemed to be for a cause in no way attributable to the workers and the workers shall be paid compensation calculated in accordance with section 47 (2) (b), regardless of whether they are employed or not employed by the person to whom the undertaking is transferred.
- (3) An employer who knows, or may reasonably be deemed to know, that a transfer of the business undertaking is due to occur, shall within one month notify the Chief Executive in writing of that fact and take steps to comply with the provisions of subsection (2).

Redundancy 51.  
Of Workers

- (1) Subject to this Section, where as a result of an employer
  - (a) ceasing to operate, in whole or part, a business, otherwise than as provided under section 50;
  - (b) temporarily suspending, in whole or part, the operation of a business for any reason specified in section 48 (1);
  - (c) reconstructing the operation of a business for the purpose of facilitating improvement in the business by which greater efficiency and economy can be effected; or
  - (d) introducing new technology in a business,

a worker employed in the business has become redundant and it is necessary to terminate the contract of employment of the worker the employer shall, before terminating the contract of employment, initiate and comply with the negotiation procedure.

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006

- (2) Where consequent upon the negotiation procedure initiated under Subsection (1), the competent officer determines
  - (a) that the contract of employment of the worker may be terminated the worker may be terminated the worker shall be entitled to compensation calculated in accordance with section 47 (2) (b),
  - (b) that the contract of employment of the worker shall not be terminated, the contract shall continue to have effect.

PART VII - DISCIPLINE

Disciplinary Offences 52.

- (1) A disciplinary offence listed in Part 1 Schedule 2 is a minor disciplinary offence
- (2) Any –
  - (a) disciplinary offence listed in Part II of Scheduled 2, and
  - (b) minor disciplinary offence which is preceded by 2 or more disciplinary offences, whether of the same nature or not, in respect of which some disciplinary measure has been taken, is a serious disciplinary offence.
- (3) where a minor disciplinary offence is not followed by another minor disciplinary offence within 12 months of its commission, that offence is deemed,

- (3) The employer shall ensure that the investigation pursuant to subsection (1), even where it consists in no more than requiring an explanation for a self-evident act or omission, is conducted fairly and that the worker has, if the worker so wishes, the assistance of a colleague or a representative of the Union, if any, and such witnesses as the worker may wish to call.
- (4) Where a disciplinary offence is established, the employer shall decide on the disciplinary measure to be taken and, where such measure is termination without notice, shall inform the worker of the same in writing with copy to the Union, if any.
- (5) A worker aggrieved by a disciplinary measure taken against the worker may initiate the grievance procedure and under that procedure the burden of proving the disciplinary offence lies on the employer.
- (6) In subsection (3) "representative of the Union" means a person nominated by the Union.

\*Drunken -  
ness At  
Work

53A. Where an employer has reasonable grounds to believe that a worker is under the influence of alcohol or a controlled drug, during working hours and is unfit to work, the employer may require the worker to take a breath test or to give a specimen of urine or blood for analysis in accordance with regulations made in that behalf. For the purpose of this section, "controlled drug" has the meaning assigned to it by section 2 of the Misuse of Drugs Act (Cap 133).

Disciplinary  
Proceedings  
Relating to  
Criminal  
Matters

54. (1) If, while a disciplinary offence is being investigated under section 53, a criminal proceeding is instituted against the worker in respect of the same offence, the investigation may be continued and completed
- \*\*
- (2) Nothing in this section is to be read as preventing a disciplinary measure from having effect subject to section 53 (5), whatever the outcome of a criminal proceeding.



Disciplinary Measures 55. Upon proof of a disciplinary offence, the employer may take any one or more of the disciplinary measures listed in Part III of Schedule 2, but, upon the grievance procedure being initiated under section 53 (5), the competent officer may review such disciplinary measure and substitute another or none as the officer deems fit.

Suspension 56. (1) When investigating a serious disciplinary offence, the employer may suspend a worker without pay

(a) pending the investigation but for no longer than one month

(b) where the investigation is discontinued under section 54 (1), pending the outcome of the trial and shall inform the worker in writing of the outcome of the investigation.

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(2) Where a worker who has been suspended under subsection (1) is reinstated, the worker is entitled to payment for the period of suspension.

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(3) A worker who is suspended under subsection (1) may terminate a contract of employment with notice.

\*

(4) An employer shall before the expiry of 40 days after the date of suspension of a worker under subsection (1) (a), or immediately after the completion of an investigation referred to in subsection (1)(b) inform the worker of the outcome of the investigation.

- (2) Notwithstanding section 47, an employer may terminate a contract of employment with notice in the following cases
- (a) where the worker is on probation, during his probationary period if he does not satisfactorily complete the period;
  - (b) where the worker is a trainee under section 27 (a) at the end of the training period if he fails to satisfactorily complete his training;
  - (c) where the termination is under section 49 or 50 on the occurrence of the event specified therein;
  - (d) where the worker is a casual, ~~part~~ or domestic worker, at any time.

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Frustration Of Contracts 58.

(1) A contract is frustrated when it becomes impossible of performance as when, among other things or reasons

- (a) the business of the employer ceases through its becoming prohibited or illegal under any written law.
- (b) a worker is disqualified through the suspension or cancellation of any license, permit, registration or authority required under the written law for the purpose of exercising the occupation or profession of the worker,

and, except in the case of paragraph (b), the worker, other than a casual worker, is entitled upon frustration of the contract to one month's notice or to payment in lieu and to any additional compensation payable under section 62.

(2) Where a contract is frustrated through a business ceasing as a result of an acquisition by Government under the Lands Acquisition Act ; any liability under subsection (1) for payment in lieu of notice and payment of compensation lies primarily upon the Government subject to reimbursement by the employer.

(d) in the case of a non

- (b) if a settlement is not effected after a lapse of fourteen days the competent officer shall proceed to make the determination.
- (2) Upon conclusion of the grievance procedure initiated under subsection (1), the competent officer may determine as follows
- (a) in the case of subsection (1) (a)
    - (i) that termination is justified;
    - (ii) that termination is not justified and that the worker is reinstated in the post or offered other suitable employment and that, where applicable, some disciplinary measure or none be taken in lieu of termination;
    - (iii) that termination is not justified but, as it would be impractical or inconvenient to reinstate the worker in the post or offer the worker other suitable employment, allow the termination subject, in the case of subsection (1) (a) (ii), to the payment in lieu of notice of one month's wages or, where an amount is specified in his contract of employment in the case of a non-Seychellois worker referred to in section 59 (c), that amount, and in any other case subject to the termination taking effect on the date of the competent officer's determination.
  - (b) in the case of subsection (1) (b)
    - (i) that termination is not justified, in which case the worker is entitled to the payment of one month's salary in addition to any benefits or compensation the worker may have earned;
    - (ii) that termination is justified, in which case the worker is liable to pay the employer a sum equal to one month's salary or, where an amount specified in the contract of employment in the case of a non-Seychellois worker referred to in section 60 (1) (c),

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\*Amended/Introduced by Act 8 of 1999  
 \*\*Amended/Introduced by Act 4 of 2006



(3) Where a worker who has completed not less than five years Continuous service dies while in employment, compensation for length of service shall be payable to the legal representative of such worker, in addition to the wages and other benefits earned by the worker, in accordance with section 47(2)(b).”;

Payment In lieu of Notice 63. Wherever notice is required to be given under this Part, payment corresponding to the period of notice required or to such part of it as is not worked may be made in lieu.

\*Interest Payable 63A Where compensation is payable to a worker in respect of termination of employment under the provisions of this Part, interest on the amount of such compensation shall be payable at such rate as may be prescribed by the Minister, for the period between the date on which such compensation becomes payable and the date of actual payment. For the purpose of this section compensation becomes payable upon the determination of the competent officer, or the ruling of the Minister as the case may be.

#### PART IX – MISCELLANEOUS PROVISIONS

Dispute 64. Wherever a dispute, other than one for which the grievance procedure is expressly provided under other provisions of this Act, arises between employer and worker and inter-dispute procedures, if any have been exhausted without agreement, either party to the dispute may initiate the grievance procedure.

Appeal and Review 65. (1) Subject to subsection (2), wherever an employer or worker is aggrieved by an authority, approval, decision or determination of a competent officer, the employer or the employers’ organisation on behalf of the employer, the worker or the Union on behalf of the worker, may appeal against it to the Minister

(2) An appeal under subsection (1), other than an appeal against a determination of the competent officer consequent upon initiation of the negotiation or grievance procedure, shall be lodged with the Chief Executive within 14 days or such other period as may be prescribed after the date on which the authority, approval, decision or determination was given.

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006

(3) Where the competent officer who gave the original authority, approval, decision or determination is the Minister, the right of an appeal under subsection (1) gives place to a right of review by the Minister.

(4) Upon an appeal or review under this section, the Minister may consult with the Employment Advisory Board before giving the ruling on such appeal or review.

(5) A reference in this Act to the authority, approval, decision or determination of a competent officer is to be construed, where the context so admits, as reference to that authority, approval, decision or determination as confirmed, reversed or amended by a ruling of the Minister upon an appeal or review.

\* (6) Subject to subsection (8) a ruling of the Minister under this section shall be given within 42 days or such longer period as may be prescribed after the date of lodgment of the appeal or of the application for review, as the case may be.

(7) A ruling of the Minister made under this section shall not be vitiated solely on the ground that it was not given within the period specified in subsection (6).

\* (8) The Minister may revoke a ruling referred to in subsection (6) within a period of 14 days after the date of the ruling and give a new ruling if he is satisfied that relevant facts in existence at the time when the original authority, approval, decision or determination was given, were not made known to the competent officer or the Minister and that it is just and equitable that a new ruling be given. The Minister shall hear the parties concerned before giving the new ruling.

(9) In any proceedings for an offence under section 76(1) for failing to comply with a decision of the Minister made under this section, a certificate purporting to be issued by the Minister shall be evidence of the facts stated therein.”;

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006



Retirement Age 66.

- (1) A person who has attained retirement age shall not, without the written approval of the competent officer or after such approval had been withdrawn, remain in the employment of, or take up employment with, another person.
- (2) An employer shall not employ a person who has reached retirement age unless that person has the written approval of the competent officer and such approval has not been withdrawn.
- (3)

- \* Certificate of Employment 69. An employer shall not more than 21 days after the date of the termination of a worker's contract of employment, give to the worker a certificate of employment, which shall contain such particulars as may be prescribed.
- Probation 70. An employer shall not employ a worker on probation
- (a) except under a contract of continuous employment when the worker is first employed by the employer; and
  - (b) for longer than 6 months unless authorised by the competent officer.
- Regulations 71. The Minister may make regulations
- (a) prescribing anything which is required to be prescribed under this Act;
  - (b) prescribing forms for the registers to be kept under this Act;
  - (c) prescribing the records and returns to be kept or produced by employers;
  - (d) prescribing fees and charges in respect of any matter under this Act;
  - (e) providing for the training of trainees and for a training levy on employers;
  - (f) prescribing allowances payable to a trainee and the manner in which the allowances are payable;
  - (g) qualifying, modifying or excepting provisions of this Act as regards their application to workers in outer islands and their employer;
  - (h) amending the Schedules;
  - (i) generally, for the better carrying into effect purposes and provisions of this Act

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006

## PART X - ADMINISTRATION

Responsibility72. (1) Subject to such exceptions as the Minister may impose in relation to an  
For

(2)

- (2) A competent officer, other than the Minister or the Chief Executive, shall, in the exercise of the functions under subsection (1), if so requested by any person affected thereby, produce the certificate of authority referred to in section 74(2).

PART XI- OFFENCES, PENALTIES AND

PROSECUTION

- Offences      76.      (1)      A person who-
- (a)      fails to produce or submit any record, document or return or furnish any information when required under this Act or by a competent officer;
  - (b)      furnishes false or mislea

- (2) An employer who
- (a) contravenes section 5A, section 8(1), section 9(1), (2) or (3), section 10(2), section 11(1) or 2, section 12(1) or (2), section 16(1) or (3), section 17A, section 18(1) ~~(2)~~, section 25(2), section 29(1), section 34(1), section 35 (1), section 50(4), section 57(5), section 58(4), section 66(2), section 69 or section 70; or
  - (b) fails to give to a worker a copy of the contract of employment under section 21(2) or 22(3)
  - (c) subject to subsection (6), employs or retains in employment a worker without intending to pay or without having reasonable grounds for believing that the employer can pay the wages of the worker as they become payable;
  - (d) without reasonable excuse, fails on demand to pay in accordance with section 32(2) or (3) any wages due to a worker;
  - (e) makes any deduction from wages other than that authorised under section 33 or section 61 (2) (b) (ii) or contrary to section 42 (2).
  - (f) deducts more than the amount authorised under section 42(1) from the wages of a worker;
  - (g) pays a worker, other than a trainee defined under section 27(a) or (c), a wage less than the national minimum wage;
  - (h) pays a trainee defined under section 27(b) an allowance less than the national minimum wage;
  - (i) in the case where a mandatory wage or allowance prescribed, pays a worker a wage or allowance other than the mandatory wage or allowance;
  - (j) fails to provide a worker with any of the applicable conditions of employment prescribed under section 40(1)(b);
  - (k) terminates a contract contrary to section 47(1);
  - (l) fails to comply with a determination of the competent ~~off~~ in accordance with section 61(2)(a)(ii) section 61(2)(b) (i);

- (m) fails to pay any compensation due under section 62;
- (n) knowingly gives or causes to be given a false certificate of employment to a worker,
- (o) fails to make a worker available for interrogation by a competent officer under section 75,

is guilty of an offence.

- (3) where an employer is charged with an offence in relation to Section 51 (1) the burden of proving that he has complied with that section shall be on him.
- (4) A person upon whom there lies an obligation under Part VI to initiate the negotiation procedure and who fails to do so is guilty of an offence.
- (5) A person who, having initiated the negotiation procedure under Part VI, fails or refuses to comply with or is in breach of any condition of any determination of the competent officer consequent upon the negotiation procedure is guilty of an offence.
- (6) Wherever initiation of negotiation procedure is required under Part VI, it is a defense for an employer charged with an offence under subsection (2) (c) to show that as soon as he realised he would not be able to meet the wages of a worker he initiated the negotiation procedure;
- (7) Where an employer is convicted of an offence under subsection (2)(e) to (i) for having paid a lesser wage or allowance than that which the employer ought to have paid, the court shall order the employer 1(i)021

(2) A person who is convicted of an offence under section 76(2)(a) in relation to section 57(5) or under section 76 (1)(b), (1)(i), (4) or (5) is liable to a fine of R.40,000.

(3) Where an offence of which a person is convicted under subsection (1) or subsection (2) of a continuous nature and that offence is continued after a conviction therefor, the person so convicted is guilty of a further offence for everyday on which the offence is so continued by the person and is liable to a mandatory daily penalty of R.400 in addition to any penalty imposable for the further offence.

(4) Notwithstanding subsection (1), (2) or (3) or any other written law, where an offence of which an employer is convicted under this Act relates to or affects more than one worker, the fines and mandatory daily penalty imposable under the preceding provisions of this section may be imposed in respect of each worker.

(5) Notwithstanding any other written law, a penalty imposed on a person convicted of an offence under this Act shall be without prejudice to the liability of the person to pay compensation or any other sum for contravening a provision of this Act.

Prosecution 78. (1) Without prejudice to section 72(1), no prosecution for an offence under this Act is commenced without the consent in writing of the Chief Executive.

(2) A prosecution for an offence under this Act may be conducted by a competent officer.

(5) Nothing in this section derogates from the powers of the Attorney-General in respect of the prosecution of criminal offences.

(6) Wherever any person is convicted of an offence under this Act and in connection with that offence moneys, whether consisting of wages, compensation, benefits earned, payment in lieu of notice or otherwise, are due and payable to another person in respect of whom the offence has been committed, the court, shall, in addition to any penalty imposable under this section, order the person convicted to pay to the other person the moneys due.

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\*Amended/Introduced by Act 8 of 1999

\*\*Amended/Introduced by Act 4 of 2006







(2) Notwithstanding sub-paragraph (1), where the reason for the proposed termination of a contract is a personal one in the sense that it relates to the character, competence, loyalty or other attribute of the worker, the competent officer shall invite the worker's participation to consultations in pursuance of sub-paragraph (1).

Record of  
Consultation  
And  
Determination

4. (1) The competent officer shall keep a record of the statements made during the consultations held pursuant to paragraph 3, and shall file all documents and evidence produced by the parties and any and written submission they may make.

(2) Following the c

- (c) a determination by the competent officer as under paragraph 4(3) of Part IA shall be made within 14 days after the date of registration.

**\*\*C. REDUNDANCY OF WORKER UNDER  
SECTION 51**

- (1)

PART II

GRIEVANCE PROCEDURE (SS. 53(5), 61, 64)

Definition of Grievance - 1. [0] 2. [1] 3. [2] 4. [3] 5. [4] 6. [5] 7. [6] 8. [7] 9. [8] 10. [9] 11. [10] 12. [11] 13. [12] 14. [13] 15. [14] 16. [15] 17. [16] 18. [17] 19. [18] 20. [19] 21. [20] 22. [21] 23. [22] 24. [23] 25. [24] 26. [25] 27. [26] 28. [27] 29. [28] 30. [29] 31. [30] 32. [31] 33. [32] 34. [33] 35. [34] 36. [35] 37. [36] 38. [37] 39. [38] 40. [39] 41. [40] 42. [41] 43. [42] 44. [43] 45. [44] 46. [45] 47. [46] 48. [47] 49. [48] 50. [49] 51. [50] 52. [51] 53. [52] 54. [53] 55. [54] 56. [55] 57. [56] 58. [57] 59. [58] 60. [59] 61. [60] 62. [61] 63. [62] 64. [63] 65. [64] 66. [65] 67. [66] 68. [67] 69. [68] 70. [69] 71. [70] 72. [71] 73. [72] 74. [73] 75. [74] 76. [75] 77. [76] 78. [77] 79. [78] 80. [79] 81. [80] 82. [81] 83. [82] 84. [83] 85. [84] 86. [85] 87. [86] 88. [87] 89. [88] 90. [89] 91. [90] 92. [91] 93. [92] 94. [93] 95. [94] 96. [95] 97. [96] 98. [97] 99. [98] 100. [99]

Registration of grievance

- (1) Wherever an employer or worker is empowered by or under this Act to initiate the grievance procedure, the employer or worker may, within 14 days of becoming aware of the event, act or matter giving rise to the grievance, register a grievance with the competent officer furnishing the officer with all the information the officer may require.
- (2) Where there exist internal procedures for resolving disputes between employer and worker or where the information required under subparagraph (1) is not furnished to the competent officer, the officer may suspend registration of, the grievance if satisfied that internal procedures have been exhausted or have proven inconclusive or until the officer has at hand the information required.
- (3) An employer or worker who fails to register a grievance within the time specified under subparagraph (1) loses the right to do so, but the competent officer, if satisfied that the grievance is a genuine one, may register the grievance if the grievance is registered within the time specified under subparagraph (1) and the grievance is not barred by any other law.

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- (2) where, within 14 days after a referral to the Union under subparagraph (1), no agreement has been reached or the Union has failed to enter into consultation as required under subparagraph (1), or where the worker is not a member of the Union the competent officer shall, upon inquiry into the grievance, determine the matter.

Grievance  
Relating to  
Termination  
Etc

4. A competent officer seized of a grievance relating to the termination of worker's contract of employment or to refusal of access to employment shall, within 7 days after registration of the grievance, invite the worker, the Union, if any, the employer and employers' organisation, if any, for consultation.

Record of  
Consultations  
And  
Determination

5. (1) The competent officer shall keep a record of the consultations held pursuant to paragraph 4 and shall file any evidence or documents produced and any written submission made.
- (2) Following the conclusion of consultations the competent officer considers the case and makes the determination.
- (3) A determination by the competent officer under this paragraph shall be made within 42 days after the date of registration of the grievance.

Appeal

6. The employer or worker may, not later than 7 days after being notified of a

(2) A non

- (9) Where -
- (a) the competent officer decides that the employer must pay employment benefits to the worker, the employer shall be liable to provide food and shelter to the worker until the worker is paid such benefits;
  - (b) where an appeal is lodged by the employer, the employer shall continue to provide food and shelter until the determination of the appeal.
- (10) If the employer does not appeal, does not pay the said employment benefits and enforcement procedure before the courts is commenced by the Department, the obligation to provide food and shelter to the worker shall come to an end.
- (11) Whenever the employer's obligation to provide food and shelter ends, the employer shall provide air tickets to the nonseychellois worker to return to the worker's country of origin. The employer may however, provide air tickets at any time to the worker at his request.

PART III  
GENERAL PROVISIONS APPLICABLE TO  
PARTS I AND II



- (2) Notwithstanding subparagraph (1) where the number of workers concerned by either procedure exceeds 3, there may not be more than 3 representatives on their behalf.

Exercise of Right 4. Any right of an employer or worker under Part I or Part II of this schedule may, at the request of the employer or worker, be exercised on behalf of the employer or worker by the employer's organisation or the Union respectively..

Employers organisation 5. An employer's organisation shall only be invited to consultations under Part I or Part II of this Schedule where

- (a) the employer concerned so requests; or  
(b) the competent officer considers its presence necessary.

## SCHEDULE 2 (SS.52 and 55)

### PART I

#### DISCIPLINARY OFFENCES

A worker commits a disciplinary offence ~~where~~ ~~the worker fails~~ without a valid reason, to comply with the obligations connected with ~~the~~ work of the worker and more particularly, inter alia where the worker

- (a) within a period of 12 months fails to observe working hours on one or ~~not more than~~ two occasions;
- (b) within a period of 12 months fails to report for work on one or not more than two occasions;
- (c) is absent without permission from the undertaking or from the post of the worker during working hours;
- (d) fails to obey reasonable orders or instructions given by the employer or representative of the employer;
- (e)

- (i) commits an offence under this Act other than offence referred in Part II (j) of this Schedule;
- (j) appears at work while under the influence of alcohol or dangerous drugs or consumes alcohol or dangerous drugs while at work or within the undertaking;
- (k) knowingly makes false statements during investigation of accidents at work or of breaches of discipline.

## PART II

### SERIOUS DISCIPLINARY OFFENCES

A worker commits a serious disciplinary offence wherever, without a valid reason, the worker causes

- (i) commits any active or passive bribery or corruption;
- (j) commits an offence under this Act whereby the worker causes serious prejudice to the employer or employer's undertaking;
- (k) does any act, not necessarily related to the work of the worker, which reflects seriously upon the loyalty or integrity of the worker and causes serious prejudice to the employer's undertaking;
- (l) shows a lack of respect to, insults or threatens a client of the employer or another worker whether it be a superior, a subordinate or a colleague;
- (m) will be or a colleague /F2 12 (a)-14(g)1leaT 571.68 T825(s)(r)-6( )-9(i)14[( )] T Ji

SCHEDULE 3 (S. 73)  
EMPLOYMENT ADVISORY BOARD

- |                           |  |
|---------------------------|--|
| Definition                | 1. In this Schedule the “Board” means the Employment Advisory Board.   |
| Composition               | 2. The Minister may, by notice in the Gazette, appoint up to 15 persons from among responsible members of the community to be members of the Board.  |
| Period of Appointment     | 3. Appointments under paragraph 2 are for two years and are renewable.   |
| Functions                 | 4. The functions of the Board are to advise the Minister whenever a matter is referred to it by the Minister under this Act.   |
| Panel of 3 members        | 5. (1) When exercising its functions under paragraph 4 with respect to any specific matter referred to it, the Board consists of a panel of 3 members selected from among the Board’s membership by the Chief Executive or person authorised by the Chief Executive.<br><br>(2) The members of the panel shall select one member to be the the panel’s chairman for the sitting relating to the specific matter. |
| Role of Competent Officer | 6. The competent officer shall place before the panel of the Board all the facts and submissions pertinent to the matter in question together with his decision or determination with respect of that matter.  |
| Proceedings               | 7. Whenever a panel as constituted under paragraph 5 sits, it regulates its own proceedings.   |
| Advice                    | 8. Where the advice to be tendered to the Minister by a panel as constituted under paragraph 5 with respect to any matter referred to it is not unanimous, each member of the panel shall tender a separate  |



Banc de Sable  
Bancs aux Cocos  
Ile aux Poules

Poivre Atoll

Poivre  
Florentin  
Ile du Sud

Alphonse and St. Francois Atolls

Alphonse  
Bijoutier  
St. Francois

Farquhar Group

Farquhar Atoll  
Ile du Nord  
Ile du Sud  
Manahas Nord  
Manahas Milieu  
Manahas Sud  
Ile aux Goelettes  
Lapins  
Ile du Milieu  
Deposes  
Bancs de Sable

Providence Atoll

Providence  
Bancs providence  
St. Pierre

Aldabra group:

Aldabra Atoll

Grande Terre  
Picard  
Polymnie  
Malabar  
Ile Michel  
Ile Esprit  
Ile aux Moustiques  
Ilot Parc  
Ilot Emile

Ilot Yangué

Grand Ile (Wizard)  
Pagode  
Ile du SudOuest  
Ile Aux Moustiques  
Ile Baleine  
Ile Aux ChauveSouris  
Ile aux Macaques  
Ile aux Rats  
Ile du NordOuest  
Ile Observation  
Ile SudEst  
Ilot la Croix  
Astove  
Assomption