

A BILL

FOR

AN ACT TO REPEAL THE LABOUR ACT 1990 AND MAKE COMPREHENSIVE PROVISIONS ON MINIMUM LABOUR STANDARDS FOR NIGERIA AND FOR MATTERS CONNECTED THEREWITH, 2015

Sponsored by Senator Suleiman Nazif

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1 PART 1 - PRELIMINARY PROVISIONS

2 1. The objective of this Act is to set minimum standards of
3 working and employment conditions and the standards set in this Act shall
4 be without prejudice to any higher standards that may be set by collective
5 agreements or decisions, award or order of any court of competent
6 jurisdiction.

Objective of the Act

7 2. This Act shall apply to all employees, except the employees
8 whose terms and conditions of employment are governed by other specific
9 laws for the time being in force.

Scope of the Act

10 3. Where the provisions of any specific laws referred in section 2
11 of this Act do not meet the minimum standards contained in this Act, this Act
12 shall apply instead of such other law.

Supremacy of this on employment matters

13 PART II - FUNDAMENTAL PRINCIPLES

14 4. The fundamental principles of this Act shall be that-

Fundamental Principles

15 (a) Conditions of employment shall be humane;

16 (b) An employee or employer shall have the right to freedom of
17 association and collective bargaining;

18 (c) Except as otherwise expressly permitted under this Act, no
19 employee shall be required to perform forced labour;

20 (d) Subject to section 8 (2) of this Act, child labour is prohibited;

1 (e) There shall be no discrimination in employment or occupation;
2 and

3 (f) There shall be equal remuneration between women and men for
4 work of equal value.

Non-discrimination
in employment

5 5.-(1) No employer or person acting on behalf of an employer shall
6 discriminate against any employee or applicant for employment on the basis of
7 his or her race, colour, sex, marital status, religion, political opinion, national
8 extraction or tribe, social origin or real or perceived HIV/AIDS Status by-

9 (a) Refusing to offer employment to an applicant for employment;

10 (b) Not affording the employee access to opportunities for promotion,
11 training or other benefits; dismissing the employee;

12 (c) Subjecting the employee to other detriment;

13 (d) Paying him or her at a rate of pay less than that payable to another
14 employee, for work of equal value; or

15 (e) screening for HIV status.

16 (2) For the purposes of this section, the following shall not constitute
17 discrimination, that is-

18 (a) any distinction or exclusion that is based on inherent requirements
19 of a particular job; and

20 (b) any special measures including affirmative action designed to
21 meet the particular requirements of or overcome prior discrimination against
22 certain groups of employees including women employees and persons with
23 disabilities.

Forced labour
prohibited

24 6.-(1) Any person who requires any other person or permits any other
25 person to be required, to perform forced labour contrary to section 34 (1) (c) of
26 the Constitution of the Federal Republic of Nigeria, 1999, commits an offence
27 and shall be liable on conviction to a fine as prescribed in the First Schedule to
28 this Act.

First Schedule

29 (2) Any person who, being a public officer, puts any constraint upon
30 the population under his or her charge or upon any members thereof to work for

1 any private individual, association or company, commits an offence and
2 shall be liable on conviction for a fine as prescribed in the First Schedule to
3 this Act.

4 (3) For the purposes of this section, "forced labour" or
5 "compulsory labour" does not include-

6 (a) any labour required in consequence of the sentence or order of a
7 court;

8 (b) any labour required of members of the armed forces of the
9 Federation or the Nigerian Police Force in pursuance of their duties as such;

10 (c) in the case of a person who have conscientious objections to
11 service in the armed forces of the Federation, any labour required instead of
12 such service;

13 (d) any labour required which is necessary in the event of any
14 emergency or calamity threatening the life or well-being of the community;

15 (e) any labour or service that forms part of-

16 (i) normal communal or other civic obligation for the well being of
17 the community;

18 (ii) such compulsory national service in the armed forces of the
19 federation as may be prescribed by an Act of the National Assembly; or

20 (iii) such compulsory national service which forms part of the
21 education and training of citizens of Nigeria as may be prescribed by an Act
22 of the National Assembly.

23 7.-(1) No young person shall be required to do any form of work
24 that constitutes the worst forms of child labour.

Worst forms of
child labour
prohibited

25 (2) For the purposes of subsection (1) of this section, the term
26 "worst forms of child labour" shall include-

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

1 (b) the use, procuring or offering of a child for illicit activities
2 including for purposes of the production of pornography or for pornographic
3 performances;

4 (c) the use, procuring or offering of a child for illicit activities
5 including for the purposes of the production and trafficking of drugs as defined
6 in the relevant international treaties or any Act of the National Assembly;

7 (d) work which, by its nature or the circumstances in which it is
8 carried out, is likely to harm the health, safety or morals of children.

9 (3) Any work that is likely to harm the health, safety or morals of a
10 child mentioned in subsection (2) (d) or this section, shall be determined by the
11 Minister in consultation with the National Labour Council, from time to time.

12 (4) The Minister shall -

13 (a) through the inspection services of the Ministry and in
14 collaboration with other relevant agencies or bodies, ensure the monitoring of
15 the existence of the worst forms of child labour in workplaces, including
16 informal workplaces;

17 (b) issue regulations concerning the removal of children from the
18 worst forms of child labour when and where identified;

19 (c) release such children to the relevant government agencies for care
20 and treatment pending their return to their parents, guardian or legal
21 representatives.

Work of children
and young persons

22 **8.-(1)** No child shall-

23 (a) be employed or work in any capacity, except where-

24 (i) he or she is employed by a member of his or her family on light
25 work of an agricultural, horticultural or domestic character;

26 (ii) a permit has been issued by the Minister after consultation with
27 employees and employers organisations in the relevant industry.

28 (b) be required to do such work as may impair the child's education or
29 physical development, and in any case shall not lift, carry or move anything so
30 heavy as to be likely to injure his or her physical development; or

1 (c) be employed to work in any industrial undertaking:

2 Provided that this subsection shall not apply to work done by a child in
3 technical schools or similar institutions if the work is approved and
4 supervised by the Ministry of Education or any corresponding department
5 of the Government of the Federation or of a State.

6 (2) Subject to subsection (3) of this section, a young person may be
7 employed only-

8 (a) with the consent of the parents, guardian or any person
9 approved by the parents or guardian;

10 (b) on a daily wage;

11 (c) on a day-to-day basis;

12 (d) for not more than eight hours per day;

13 (e) on days that are not public holidays; and

14 (f) so long as the young person returns each night to the place of
15 residence of his or her parents or guardian or a person approved by the
16 parents or guardian:

17 Provided that in circumstances where it is not reasonably possible for the
18 young person to return each night to the place of residence, an authorized
19 labour officer may approve the employment of such young person,

20 (3) Notwithstanding subsection (2) or this section, no young
21 person shall be employed-

22 (a) to work during the night, except in case of emergency; or

23 (b) to work in any vessel except where the vessel is a school or
24 training vessel or a vessel where only members of the young person's family
25 are employed.

26 (4) No person shall continue to employ any young person after
27 receiving notice either orally or in writing from the parent or guardian of the
28 young person to the effect that the young person is employed against the
29 wishes or the parents or guardian:

30 Provided that this subsection shall not apply to a young person employed

Offences relating
to worst forms of
child labour and
employment of
young persons.
First Schedule

1 under a written contract entered into with the approval of all authorised officer.

2 9.-(1) Any person who contravenes the provisions of section 7 of this
3 Act, commits an offence and shall be liable on conviction to imprisonment for a
4 term of not less than 10 years without an option or fine.

5 (2) Where the offence under Subsection (1) of the is section is
6 committed by a body corporate, each director, manager or officer of the body
7 corporate shall be liable all conviction to imprisonment for a term of not less
8 than 10 years without an option of fine.

9 (3) Any employer proprietor, owner, director or manager of any
10 undertaking who employs a child or young person in contravention of section 8
11 of this Act or any regulations made thereunder, and any parent, guardian or any
12 person approved by the parents or guardian of a child or young person who
13 permits the child or young person to be so employed, commits an offence and
14 shall be liable on conviction to a fine as prescribed in the First Schedule to this
15 Act.

16 (4) Any person who aids or abets the commission of any offence under
17 this section commits an offence and shall be proceeded against accordingly as
18 if he is a principal offender

Register or young
persons in
employment.
First Schedule

19 10.-(1) Every employer of young persons shall keep a register of all
20 young person in his or her employment with particulars of their ages, the date
21 of employment and the conditions and nature of their employment and such
22 other particulars as may be prescribed, and shall produce the register for
23 inspection when required by a labour officer

24 (2) Any employer who-

25 (a) fails to keep a register in accordance with subsection (1) of this
26 section, shall be liable to a penalty specified in the First Schedule to this Act; or

27 (b) keeps a register with false particulars, commits an offence and
28 shall be liable on conviction to a fine specified in the First Schedule to this Act.

1 PART III - GENERAL PROVISIONS ON REMUNERATION CONTRACTS OF
2 EMPLOYMENT AND TERMS AND CONDITIONS OF EMPLOYMENT

3 11.-(1) Every employer shall provide for payment not below the
4 national minimum wage as may be specified by law, from time to time.

Manner or
payment of
remuneration

5 (2) Remuneration shall be paid to an employee in legal tender or by
6 cheque or any other legal means.

7 (3) An employer may provide benefits in kind as a part of an
8 employee's remuneration if" the benefit in kind is prescribed by law,
9 collective agreement, an arbitration award or a court order or because it is
10 customary or desirable in view of the nature of the industry or occupation in
11 which the employee is engaged.

12 (4) Notwithstanding subsection (3) of this section, no employer
13 shall give or provide any alcoholic drinks or noxious drug by way of benefit
14 in kind of an employee's remuneration.

15 (5) No employer shall pay remuneration to an employee at
16 intervals exceeding one month.

17 (6) Remuneration of any employee shall become due and payable
18 at the end of each period for which the contract of employment is expressed
19 to subsist, that is, daily, weekly, monthly or such other period as may be
20 agreed upon:

21 Provided that, where the period is more than one month, the remuneration
22 shall become due and payable at intervals not exceeding one month.

23 12. Remuneration shall not be paid to an employee in premises
24 used for the sale of alcoholic drinks or for the retail of goods, except in the
25 case of an employee employed on such premises.

Remuneration
not to be paid in
certain premises

26 13. Every employer or young person shall keep a register of all
27 young persons in his or her employment with particulars of their ages, the
28 date, conditions and nature of their employment and such other particulars
29 as may be prescribed, from time to time, by the Minister.

Employers to
maintain register
of young persons
in their
employment

Deduction
(including
deductions for
overpayment of
remuneration)

1 14.-(1) No employer shall make deduction or make any agreement
2 with an employee for any deduction from the remuneration to be paid by the
3 employer to the employee, or for any payment to the employer by the employee
4 for or in respect of any willful misconduct or neglect or the employee.

5 (2) Notwithstanding subsection (1) of this section, an employer may
6 make such deduction from the remuneration of the employee as may be
7 authorised, from time to time, by law or any authorized labour officer.

8 (3) An employer may, with the consent of an employee in writing,
9 make any other deductions from the remuneration of the employee and remit to
10 the appropriate person, any contributions to provident or pension funds or
11 other schemes agreed to by the employee.

12 (4) Notwithstanding any other provisions to the contrary in this Act or
13 any other enactment or law, the total amount of deductions that may be made
14 from the remuneration of an employee in any month shall not exceed one-third
15 of the remuneration of the employee for that month.

Written particulars
of terms of
employment

16 15.-(1) Not later than 3 months from the commencement of an
17 employee's period of employment with an employer, the employer shall give to
18 the employee a written statement specifying-

19 (a) the name of the employer, group of employers or the undertaking
20 by which the employee is employed;

21 (b) the name and address of the employee and the place and date of his
22 or her engagement;

23 (c) the nature of the employment;

24 (d) if the contract is for a fixed term, the date when the contract
25 expires;

26 (e) the appropriate period of notice to be given by the party wishing to
27 terminate the contract;

28 (j) the rates of remuneration and method of calculation thereof and the
29 manner and periodicity of payment of remuneration;

30 (g) any terms and conditions relating to-

- 1 (i) hours of work,
2 (ii) holidays and holiday pay,
3 (iii) incapacity for work due to sickness or injury, including any
4 provisions for sick pay,
5 (iv) disciplinary rules; and
6 (h) any other special conditions of contract of employment.

7 (2) If after the period mentioned in subsection (1) of this section,
8 there is a change in the terms to be included' or referred to in the statement,
9 the employer shall-

10 (a) not later than one month after the change, inform the employee
11 of the nature of the change in writing; and

12 (b) if he or she does leave a copy of the statement with the
13 employee, preserve the statement and ensure that the employee has
14 reasonable opportunity of reading it in the course of his employment or that
15 it is made reasonably accessible to the employee in some other way.

16 (3) A statement under subsections (1) and (2) of this section may,
17 for all or any of the particulars to be given by the statement, refer the
18 employee to some other document which the employee has reasonable
19 opportunity of reading in the course of his employment or which is made
20 reasonably accessible to the employee in some other way.

21 (4) If the employer, in accordance with subsection (3) of this
22 section, in reference to the statement in any such document, indicates to the
23 employee that the future changes in the terms particularised in the document
24 will be entered in the document (or recorded by some other means for the
25 information of the person referred to in the document), the employer need
26 not under subsection (2) of this section to inform the employee of any such
27 change which is duly entered or recorded not more than one month after the
28 change is made.

29 (5) If, not more than 6 months after the commencement of the
30 period of employment of the employee, a further period of employment is

1 commenced with the same employer and the terms of employment are the
2 same, no statement need be given under subsection (1) of this section in respect
3 of the second period of employment, so however that this subsection shall be
4 without prejudice to the operation of subsection (2) of this section if there is a
5 change in the terms of employment.

6 (6) The provisions of this section in respect of written statement shall
7 not apply if an employee has a written contract of employment which covers
8 each of the particulars mentioned in subsection (1) or this section and he or she
9 has a copy of that written contract of employment.

HIV/AIDS in
the workplace

10 16.-(1) No employer shall-

11 (a) screen any applicant for employment or test his or her employee
12 for HIV infection;

13 (b) terminate the employment of an employee on account of his or her
14 real or perceived HIV status and the employee shall be allowed to work for as
15 long as he or she remains medically fit to work in appropriate work.

16 (2) If an employee becomes too ill to perform his or her work and all
17 reasonable measures to retain him have been exhausted, the employer may
18 terminate the contract of employment.

19 (3) In workplaces where there is an occupational risk of contacting
20 HIV, including places where there is regular contact with blood and bodily
21 fluids, the employer shall, as far as is reasonably practicable, provide,
22 maintain, inform and train the employees about protective equipment and first
23 aid, and apply universal precautions

Medical
examination

24 17.-(1) Every employee who enters into a contract of employment
25 shall be medically examined by a registered medical practitioner at the expense
26 of the employer for the sole purpose of determining fitness for work.

27 (2) Nothing in this Act shall be construed to allow medical
28 examination to be used to screen any applicant for employment or employee
29 for HIV infection.

30 (3) No employer shall disclose details of a medical examination under

1 this section except with the consent of the applicant or employee.

2 18.-(1) Subject to section 22 of this Act, a contract of employment
3 may be for an indefinite period or for a definite period.

Contracts of
employment:
General

4 (2) An employer shall be responsible for the performance of any
5 contract of employment made by any person acting on his behalf.

6 (3) The probationary period for a contract of employment shall not
7 be more than one year, and during the probationary period, either party may
8 terminate the contract upon giving two weeks notice or with two weeks
9 remuneration in lieu of such notice.

10 (4) If at the end of the probationary period specified in subsection
11 (3) of this section, the contract is not terminated, the contract shall be
12 deemed to be confirmed.

13 (5) Except as otherwise provided in sections 46 and 47 of this Act
14 with respect to contract of apprenticeship, no young person shall be capable
15 of entering into a contract of employment under this Act.

16 (6) No employee shall be bound by virtue of any contract of
17 employment under this Act to answer for the debt, default or miscarriage of
18 any other person.

19 (7) No employer shall-

20 (a) make it a condition of employment that an employee shall or
21 shall not-

22 (i) join a trade union,

23 (ii) relinquish membership or a trade union, or

24 (iii) hold office in a trade union;

25 (b) cause the dismissal of, or otherwise prejudice an employee-

26 (i) by reason of membership of trade union,

27 (ii) because of trade union activities outside working hours or with
28 the consent of the employer, within working hours, or

29 (iii) by reason or the fact that he has lost or been deprived of
30 membership of a trade union or has refused or been unable to become, or for

- 1 any other reason is not, a member of a trade union.
- Duty of employer
to provide work
- 2 19.-(1) Except as otherwise provided by a collective agreement, every
3 employer shall, unless an employee has broken his contract, provide work
4 suitable to the employee's capacity on every day (except rest days and public
5 holidays) on which the employee presents himself" or herself and is fit for
6 work.
- 7 (2) If the employer fails to provide work as mentioned in subsection
8 (1) of this section, the employer shall pay remuneration to the employee in
9 respect of each day on which the employer has so failed at the same rate as
10 would be payable if the employee had performed a days's work.
- 11 (3) Where, owing to a force majeure or other circumstances beyond
12 the control of the employer, the employer is unable to provide work for a period
13 not exceeding one week or such longer period as an authorized labour officer
14 may allow in any particular case, the employee shall be entitled to
15 remuneration only on the first day of the period for which the employer was
16 unable to provide work.
- 17 (4) Nothing in this section shall be applicable where the employee is
18 suspended from work as a punishment for a breach of discipline or any other
19 offence.
- Sexual harassment
in the workplace
- 20 20.-(1) Any person who engages in sexual harassment during the
21 process of recruitment or in the course or work which is not limited to the
22 physical premises of the employer, commits an offence under this ACL and
23 shall be liable to a fine as prescribed in the First Schedule to this Act.
- 24 (2) Notwithstanding anything to the contrary in other enactment or
25 law, any aggrieved person who brings a complaint under section SS of this Act
26 shall show a prima facie case, following which the burden of proving that
27 sexual harassment did not occur shall shift to the person against whom the
28 complaint is made.
- Transfer to other
employment
- 29 21.-(1) Transfer of any contract of employment from one employer to
30 another shall be subject to the consent of the employee and the endorsement of

1 the transfer upon the contract of employment by an authorized labour
2 officer.

3 (2) Before endorsing the transfer upon the contract of employment
4 pursuant to subsection (1) of this section, the authorized labour officer shall
5 ascertain that the employee has freely consented to the transfer and that his
6 consent has not been obtained by coercion under undue influence or as a
7 result or misrepresentation or mistake.

8 (2) If by the transfer the employee will-

9 (a) change his form of employment from one which is the subject
10 of an exemption order made under section 55 of this Act; or

11 (b) be subject to such a change of conditions as in the officer's
12 opinion renders such a course advisable, the authorized labour officer may
13 require the employee to be medically examined or re-examined, as the case
14 may be.

15 22.-(1) Either party to a contract of employment may terminate the
16 contract-

Termination or
contract of
employment

17 (a) in the case of a contract of employment for a specified period or
18 specific task, upon the expiration of such period, upon the completion of
19 such task or upon such other period as may be agreed by the parties;

20 (b) in the case of a contract of employment for unspecified period,
21 upon the expiration of not less than one month's notice; or

22 (c) in any other way in which a contract of employment may be
23 legally terminated.

24 (2) The notice to be given for the purposes of subsection (1) of this
25 section shall be in writing.

26 (3) Nothing in this section shall-

27 (a) affect the right of either party to a contract of employment to
28 terminate the contract without notice by reason of gross misconduct; or

29 (b) prevent either party to a contract of employment from waiving
30 his rights to notice on any vacation or from accepting a payment in lieu of

1 notice and such payment shall be calculated in accordance with section 28 or
2 this Act.

3 (4) All remuneration payable in money shall be paid on or before the
4 expiry of any period of notice.

5 (5) If an employer gives notice to terminate the contract of
6 employment of an employee who has been continuously employed for a period
7 of three months or such longer period, the employer shall not be liable under
8 this section to make any payment in respect of the period during which the
9 employee is absent from work with leave of the employer granted at the request
10 or the employee.

Common
employment not
a defence to
law suit for
personal injuries

11 23.-(1) It shall not be a defence to an employer who is sued in respect
12 of personal injuries caused by the negligence of a person employed by him, that
13 such person was, at the time the injuries were caused, in common employment
14 with the person injured.

15 (2) Any provisions contained in a contract of service or
16 apprenticeship, or in an agreement collateral thereto (including a contract or
17 agreement entered into before the commencement of this Act) shall be void in
18 so far as it would have the effect of excluding or limiting any liability of the
19 employer in respect of personal injuries caused to the person employed or
20 apprenticed by the negligence of persons in common employment with him.

21 (3) For the purposes of this section, the expression "personal injuries"
22 shall include any disease and any impairment of a person's physical or mental
23 condition arising out of his employment and "injury" and cognate expression
24 shall be construed accordingly.

Hours of work
and work time

25 24.-(1) The normal hours of work for an employee shall be a
26 maximum of eight hours a day or forty hours a week.

27 (2) Hours which an employee is required to work in excess of the
28 normal hours fixed under subsection (1) or [his section shall constitute
29 overtime and shall be remunerated at a rate not less than one and one-quarter
30 times the regular hourly rate.

1 (3) Where an employee is at work for six hours or more a day, his
2 work shall be interrupted (to the extent which is necessary having regard to
3 its character and duration and to working conditions in general) by allowing
4 one or more suitably spaced rest-intervals of not less than one hour on the
5 aggregate:

6 Provided that-

7 (a) exceptions may be made to the rule in this subsection where
8 unforeseen circumstances render them necessary; and

9 (b) where it is found unavoidable in view of the nature of the work
10 and the working conditions in general, time-off for a meal at the work-site or
11 in the immediate vicinity may be substituted for the rest-interval.

12 (4) In subsection (3) of this section, "rest-interval" means an
13 interruption of work, of which the length is fixed beforehand and during
14 which the employee is free to dispose of his time and is not required to
15 remain at the place of work.

16 (5) Where, by reason of its connection with a mechanical process
17 or as a result of other circumstances, the work involves continuous strain or
18 is particularly tiring in other ways, the employee shall be allowed the
19 requisite number of suitably adjusted and spaced breaks in the work.

20 (6) In subsection (5) of this section, "break in the work" means a
21 short intermission in the work fixed beforehand which is ordered with a
22 view to allowing the employee to detach himself from his work and which is
23 not to be counted as a rest-interval or time-off under subsection (3) of this
24 section.

25 (7) In every period of seven days an employee shall be entitled to
26 at least one day of rest which shall not be less than twenty-four consecutive
27 hours; if any reduction takes place in the weekly rest-period corresponding
28 time-off from work shall be allowed as soon as possible (and in any case not
29 later than fourteen days thereafter).

Provision of transport	1	25.-(1) Where an employee is required to travel from his normal place
	2	of work to another work-site, he shall be entitled to free transport or an
	3	allowance in lieu thereof.
	4	(2) Where the employer provides a vehicle or vessel for the purposes
	5	of subsection (1) of this section, he shall ensure that the vehicle or vessel is
	6	suitable, is in good sanitary condition and is not overcrowded.
Sick leave	7	26. Subject to the Workmen's Compensation Act, an employee shall
	8	be entitled to be paid remuneration up to twelve working days in anyone
	9	calendar year during absence from work caused by temporary illness certified
	10	by a registered medical practitioner:
	11	Provided that this section shall not apply unless-
	12	(a) the contract of employment remains in existence during the period
	13	of absence and the employee is ready and willing to perform his part of the
	14	contract of employment save for the incapacity produced by the illness; and
	15	(b) the employee, if so requested by the employer, consents to be
	16	examined by a qualified medical practitioner nominated by the employer.
Annual holidays with pay	17	27.-(1) Every employee shall, after 12 months continuous service, be
	18	entitled to a holiday with full pay of at least 14 working days.
	19	(2) The holiday mentioned in subsection (1) of this section may be
	20	deferred by agreement between the employer and the employee:
	21	Provided that the holiday-earning period shall not thereby be increased beyond
	22	24 months continuous service.
	23	(3) It shall be lawful for an employer to pay remuneration in lieu of the
	24	holiday mentioned in subsection (1) of this section to an employee whose
	25	contract of employment has not been terminated.
	26	(4) upon termination, [he employee shall be entitled to receive the
	27	portion of unused annual holiday with pay or compensation in lieu thereof.
Calculation of various benefits	28	28. In calculating the pay in lieu of notice, leave pay and sickness
	29	benefit only that form part of the remuneration which an employee receives in
	30	money (excluding overtime) shall be taken into account.

1 29.-(1) In the event of redundancy-

Redundancy

2 (a) the employer shall inform the trade union or employees'
3 representative concerned of the reasons for and the extent of the anticipated
4 redundancy;

5 (b) the principle of last-in, first out" shall be adopted in the
6 discharge of the particular category of employees affected, subject to all
7 factors of relative merit, including skill, ability and reliability; and

8 (c) the employer shall use his best endeavours to negotiate
9 redundancy payments to any discharged employees who are not protected
10 by any Regulations under this Act.

11 (2) In the absence of a negotiated agreement mentioned in
12 subsection (1) (c) of this section, the Minister may set the rate and order
13 payment of redundancy allowance.

14 (3) In setting the rate pursuant to subsection (2) of this section, the
15 Minister shall take into account any prevailing rate in the industry.

16 30. Any employer who-

17 (a) enters into any agreement or contract or employment or gives
18 any remuneration for employment contrary to the provisions of this Part, or
19 declared by this Part of this Act to be unlawful;

Offences for
contravention of
Part III,
First Schedule

20 (b) makes any deduction from the remuneration of any employee
21 or receives any payment from any employee contrary to this Part; or

22 (c) contravenes sections 13, 22 (3), (5 and (7), 23 and 25 (3) of this
23 Act, commits an offence and shall be liable on conviction to the penalty
24 specified in the First Schedule to this Act.

25 PART IV - RECRUITING

26 31.-(1) No recruiter shall operate except with a licence granted by
27 the Minister under this Act.

Prohibition of
recruiting except
under licence

28 (2) The Minister may license any fit and proper person as a
29 recruiter.

30 (3) A licence granted under this section shall be valid for a period of

1 12 months from the date of issue, and notification of the grant shall be
2 published in the Federal Gazette.

3 (4) The grant or a licence under this section may be made subject to
4 such conditions and restrictions as the Minister may think fit, and such
5 conditions or restrictions shall be endorsed upon the licence.

6 (5) Every applicant for a licence under this section shall, if so required
7 by the Minister, furnish such financial or other security for his proper conduct
8 as may be required,

9 (6) The Minister may at any time-

10 (a) suspend a licence granted under this section pending the result of
11 any investigation into any alleged irregularity; and

12 (b) withdraw the licence if the licensee has been convicted of any
13 offence under this or any other enactment or law or has otherwise so conducted
14 himself as in the opinion of the Minister to no longer be a fit and proper person
15 to undertake recruiting operations.

16 (7) Where a licence is suspended or withdrawn under subsection (6)
17 of this section, notification of the suspension or withdrawal shall be published
18 in the Federal Gazette.

19 (8) The recruiter shall have the right to appeal to the National
20 Industrial Court against any licence withdrawn or suspended.

Restriction on
recruiting

21 32.-(1) No recruiter shall recruit employees for employment with any
22 person-

23 (a) in excess of the number of employees authorised to be recruited
24 under the licence granted under section 31 of this Act; or

25 (b) from any area or place which is not specified in the licence,

26 (2) No public officer shall-

27 (a) act as a recruiting agent;

28 (b) exercise pressure upon possible recruits; or

29 (c) receive from any source whatsoever any special remuneration or
30 other special inducement for assistance in recruiting.

1 33.-(1) Every recruiter shall keep a register in the prescribed form
2 from which the records and regularity every recruiting operation and of his
3 own conduct can be verified and shall produce the register or records for
4 inspection on demand by authorized labour officer.

Recruiting register,
etc.

5 (2) No person shall assist a recruiter in a subordinate capacity in the
6 actual recruiting operation unless he has been approved in writing by the
7 Minister and has been furnished with written authority by the recruiter, and
8 where a recruiter's assistant commits an offence under this Part of this Act,
9 both the recruiter and [he assistant shall be deemed to have committed the
10 offence and shall each be liable on conviction to the penalty thereof.

11 (3) A recruiter who is the agent or assistant of another recruiter-

12 (a) shall receive a fixed salary; or

13 (b) with the written approval of the Minister, may receive
14 remuneration calculated at the rate per capital or employees recruited, the
15 rate being specified in the approval

16 (4) No recruiter shall recruit any young person:

17 Provided that the Minister may in writing authorised the recruitment of any
18 young person whose apparent age exceeds 16 years with the consent of the
19 parents or guardian for employment in an occupation appearing to the M
20 minister not to be injurious to his moral or physical development, subject to
21 such safeguards relating to his welfare as may be stated in the authorisation.

22 (5) No advance in excess of a total sum of one-third of his or her
23 remuneration shall be paid to any recruited employee in respect of
24 remuneration prior to his employment, and any advance which is made shall
25 be subject to such conditions as the Minister may direct either generally or in
26 respect of any particular case:

27 (a) In any case where a recruited employee is not engaged at or near
28 the place of recruiting, the Minister may in his discretion require, either
29 generally or in any specific recruiting operation, the issue to the employee of
30 a document in writing containing particulars of-

- 1 (a) the identity of the employee and the employer;
2 (b) the prospective conditions of employment; and
3 (c) any advance of remuneration made to the employee, and
4 containing such other particulars as the Minister may consider necessary.

5 (7) The recruiting of the head of a family shall not be deemed to
6 involve the recruiting of any member of his family.

7 (8) Where the family of an employee accompanies him or her to his or
8 her place of employment under section 37 of this Act, he or she and the
9 members of his or her family shall not be separated except at the express
10 request of the persons concerned.

Provision of
transport by
recruiter, etc.

11 34.-(1) The recruiter or employer shall provide transport to the place
12 of employment, except in so far as an authorized labour officer may in any
13 particular case certify that the provision of transport is impossible for the whole
14 or any part of the journey.

15 (2) The Minister shall issue such directions as he may consider
16 necessary to ensure that-

17 (a) the vehicles and vessels used for the transport of recruited
18 employees are suitable for the purpose;

19 (b) when it is necessary to break the journey for the night, suitable
20 accommodation is provided;

21 (c) in the case of long journeys all necessary arrangements are made
22 for medical assistance for the recruited employees and for their welfare;

23 (d) where recruited employees have to make long journeys on foot to
24 the place of employment-

25 (i) the length of the daily journey is compatible with the health and
26 strength of the recruited employees;

27 (ii) if the extent of the movement of labour renders it necessary, rest
28 camps or rest houses and are kept in proper sanitary condition and have the
29 necessary facilities for medical attention; and

30 (e) adequate protection (which may include the provision of separate

1 accommodation) is afforded during the journey to members of the family of
2 a recruited employee accompanying him or her under section 37 of this Act.

3 (3) Where recruited employees have to make long journeys in
4 groups to the place of employment, they shall be conveyed by a responsible
5 person approved by an authorised labour officer.

6 **35.**-(1) The expenses of the journey of recruited employees to the
7 place of employment, including all expenses incurred for their welfare
8 during the journey, shall be borne by the recruiter or the employer.

Expenses and
maintenance

9 (2) The recruiter shall furnish recruited employees with everything
10 necessary for their welfare during the journey to the place of employment,
11 including particularly, as local circumstances may require, adequate and
12 suitable supplies of food, drinking water, fuel, cooking utensils, clothing
13 and blankets.

14 (3) The Minister may issue directions, either generally or in respect
15 of any particular recruiting operation, for the proper implementation of
16 subsection (2) of this section.

17 (4) The Minister may by order apply all or any of the provisions of
18 this section or any directions, issued thereunder, either generally or in any
19 particular case, to the recruitment of employees under a certificate issued
20 pursuant to section 31 of this Act and to the employee-recruiter and
21 employer concerned.

22 **36.**-(1) Any recruited employee who-

Repatriation

23 (a) becomes incapacitated by sickness or accident during the
24 journey to the place of employment;

25 (b) is found on medical examination to be unfit for employment:

26 (c) for a reason for which he is not responsible, is not engaged after
27 being recruited; or

28 (d) is found by an authorised labour officer to have been recruited
29 by misrepresentation or mistake, shall be repatriated at the expense of the
30 recruiter or employer.

1 (2) Where the family of a recruited employee accompanies him under
 2 section 37 of this Act, section 33(6) of this Act, and any requirements or
 3 directions thereunder, shall apply to the family as nearly as may be, and if the
 4 employee-

5 (a) is repatriated under subsection (I) of this section; or

6 (b) dies during the journey to the place of employment, the family
 7 shall be repatriated at the expense of the recruiter or employer.

Right to be
 accompanied
 by family

8 37. Every employee recruited under this Part of this Act shall have the
 9 right to be accompanied by his or her spouse or dependent children.

10 SPECIAL PROVISIONS FOR EMPLOYMENT OUTSIDE NIGERIA

Power to prohibit
 recruitment for
 outside Nigeria

11 38. The President may, by Order published in the Federal Gazette,
 12 prohibit the recruitment or engagement of citizens for employment outside
 13 Nigeria in any territory named in the Order.

International
 agreements

14 39.-(1) The period of a foreign contract shall be in accordance with
 15 the terms and any agreement entered into between Nigeria and any other
 16 country for the purpose of the recruitment in Nigeria of Nigerian employees or
 17 employees for service in the country concerned.

18 (2) Within 30 days after the expiration of a foreign contract, the
 19 recruiter to whom licence was granted under section 31 of this Act or the agent
 20 of the employer shall offer to provide the employee a return passage for himself
 21 or herself and his or her family, if any, to the place of recruitment, together with
 22 proper accommodation and maintenance on the journey.

Establishment of
 the Bureau for
 Foreign
 employment, etc.

23 40.-(1) There shall be established within the Federal Ministry of
 24 Employment, Labour and Productivity, a Bureau for Foreign Employment (in
 25 this Act referred to as "the Bureau").

26 (2) The Bureau shall have responsibility for-

27 (a) the regulation of outgoing migration for employment;

28 (b) registration of citizens leaving Nigerian under any foreign
 29 contract of employment;

30 (c) designing and enforcing special terms and conditions for foreign

1 contract of employment for the citizens;

2 (d) the maintenance of data bank on citizens who left Nigerian
3 under foreign contracts of employment;

4 (e) advising the Minister on matters relating to foreign contract of
5 employment; and

6 (f) carrying out such other functions or duties as the Minister may,
7 from time to time, direct.

8 **41.** The period of foreign contract shall be in accordance with the
9 terms of any agreement entered into between Nigerian and any other country
10 for the purpose of the recruitment in Nigeria of Nigerian employees or
11 employees for service in the country concerned.

Duration of
foreign contract
of employment

12 **42.** No citizen shall leave Nigeria under a foreign contract to serve
13 as a migrant employee outside Nigeria unless he or she has been brought
14 before an authorized labour officer of the Bureau for Foreign Employment
15 and certified by that officer as duly recruited in accordance with this Part of
16 this Act.

Procedure prior
to leaving Nigeria

17 **43.-(1)** No person shall by fraud, falsehood, intimidation, coercion
18 or misrepresentation induce any employee (0 enter into a contract of
19 employment under this Pan of this Act.

Inducing
recruitment by
fraud, etc.

20 (2) Any contract entered into by reason of fraud, falsehood,
21 intimidation, coercion, misrepresentation or inducement shall be void, save
22 that the employer or his agent shall be liable to pay remuneration due under
23 the contract of employment and to provide for the return to his place of
24 abode of any employee engaged thereunder, together with any members of
25 his family who have accompanied him or her.

26 (3) If the employer or his agent fails to pay the remuneration in
27 question or to provide for the return of the employee and the members of his
28 family in accordance with subsection (1) or his section, the remuneration
29 shall be paid, and the expenses of the returns shall be borne, by the Federal
30 Government, and may be recovered by the Government from the employer

1 or his agent.

Neglect or ill
treatment.
First Schedule

2 **44.** Any employer who neglects or ill-treats an employee whom he
3 has contracted to employ in accordance with this Part of this Act, commits an
4 offence, and on conviction shall be liable to the fine specified in the
5 First Schedule to this Act.

Offences: General,
First Schedule

6 **45.** Any person who-

7 (a) recruits or attempts to recruit any citizen contrary to section 31 of
8 this Act;

9 (b) contravenes or fails to give effect to any special condition or
10 restriction endorsed on the recruiter's licence or granted under this Act;

11 (c) induces or attempts to induce, or assists or offers to assist, any
12 citizen to leave Nigeria in order to be employed as an employee outside Nigeria
13 otherwise than under a contract of employment that is in accordance with this
14 Act;

15 (d) engages or offers or agrees to employ or to find employment for
16 any citizen as an employee outside Nigeria except under a contract of
17 employment except under a contract of employment that is in accordance with
18 this Act;

19 (e) being a recruiter or a person under a contract of employment as a
20 migrant employee, fails to comply with section 42 of this Act;

21 (f) contravenes the provisions of section 50 (2) of this Act;

22 (g) obstructs an authorized labour officer in the exercise of his
23 functions under this section or any other provision of this Act; or

24 (h) fails to comply with a direction under section 53 (j) of this Act,

25 commits an offence and shall be liable on conviction to a fine specified in the
26 First Schedule to this Act.

27 PART V - SPECIAL MODALITIES FOR CERTAIN CLASSES OF EMPLOYEES

Contracts of
apprenticeship

28 **46.-(1)** Every contract of apprenticeship shall be valid only if it
29 complies with the following, that is-

30 (a) the apprentice has consented to the contract of apprenticeship and

1 that consent has not been obtained by coercion or undue influence or as a
2 result of misrepresentation or mistake;

3 (b) the contract of apprenticeship to is in writing and is attested by
4 an authorized labour officer;

5 (c) the apprentice has been medically examined and certified by a
6 qualified medical practitioner to be physically and mentally fit to be
7 employed and trained in the employment specified in the contract;

8 (d) the parties to the contract have fully understood the terms of the
9 contract before signing it or otherwise indicating consent;

10 (e) provision has been made in the contract as to the manner in
11 which any remuneration in case or otherwise due to the apprentice shall be
12 determined and as to the scale of increase in remuneration during the course
13 of apprenticeship;

14 (f) provision has been made in the contract for payment of
15 remuneration to apprentice during illness and during holidays, if any;

16 (g) where the apprentice is unable by reason of his apprenticeship
17 to return to his home at the end each day, the contract contains adequate
18 provision to ensure that the apprentice is supplied with food, clothing,
19 accommodation and medical attention; and

20 (h) the terms of the contract are in accordance with any regulations
21 made pursuant to this Act.

22 47.-(1) If any person whom an apprentice has been placed under,
23 retains the apprentice in his service after the stipulated period of service has
24 expired without any agreement between the panics for the payment of
25 remuneration, the apprentice shall be entitled to recover from the person so
26 retaining him remuneration at the ordinary current rate payable for service
27 similar to that performed by the apprentice.

28 (2) Every apprentice shall be entitled after 12 months continuous
29 service to a full pay of at least 12 working days.

Retention of
apprentice after
expiry of contract

Maternity
protection

1 48.-(1) Any pregnant woman in employment, whether married or
2 unmarried-

3 (a) shall have the right to leave her work if she produces a medical
4 certificate given by a registered medical practitioner stating that her
5 confinement or delivery will probably take place within 6 weeks;

6 (b) shall not be permitted to work during 6 weeks following her
7 confinement;

8 (c) if she is absent from her work in pursuance of paragraph (a) or (b)
9 of this subsection, and had been continuously employed by her then employer
10 for a period of 6 months or more immediately preceding her absence. she shall
11 be paid not less than 50 percent of the remuneration she would have earned if
12 she had not been absent; and

13 (d) shall in any case, if she is nursing her child, be allowed half an hour
14 twice a day during her working hours for that purpose.

15 (2) Subsection (1) (c) of this section shall have effect notwithstanding
16 any law relating to the fixing and payment of a minimum wage.

17 (3) No employer shall be liable, in his capacity as an employer, to pay
18 any medical expenses incurred by a woman on account of her pregnancy or
19 confinement.

20 (4) Where a woman-

21 (a) is absent for work pursuant to paragraph (a) or (b) of subsection (1)
22 of this section;

23 (b) remains absent from her work for a longer period as a result of
24 illness certified by a registered medical practitioner to arise out of her
25 pregnancy or confinement and to render her unfit for work; then, until her
26 absence has exceeded such a period (if any) as may be prescribed, no employer
27 shall give her notice of dismissal during her absence or notice of dismissal
28 expiring during her absence.

29 (5) A pregnant female employee is entitled to four additional weeks of
30 maternity leave in the case of a multiple birth.

- 1 **49.** Every employer shall-
- 2 (a) ensure that every pregnant female employee who is engaged in
- 3 any work involving ionizing radiation is protected from possible risks of
- 4 exposure of her foetus to ionizing radiation;
- 5 (b) ensure that every female employee, who is breast feeding and is
- 6 engaged in any work involving ionizing radiation, is protected from possible
- 7 bodily contamination arising from exposure to ionizing radiation;
- 8 (c) take other measures towards the protection of pregnant women
- 9 and women breast feeding at workplace in accordance with the Basic
- 10 Ionizing Radiation Regulations 2003 or any other enactment or law relating
- 11 to the protection of employees from nuclear or ionizing radiation sources:
- 12 and
- 13 (d) take any necessary measure to protect pregnant female
- 14 employees from any harmful substance, chemical, apparatus, machine,
- 15 tools, equipment or anything whatsoever in a work place which is capable of
- 16 posing any potential risk or danger to the health of the female employee or
- 17 her foetus.

Protection of
pregnant women
at workplace.
S.I. 15 of 2003

18 **50.-(1)** Except as otherwise provided in this Act, any person may

19 engage in night work.

Night work

20 (2) Without prejudice to subsection (1) of this section, pregnant

21 women shall be exempted from night work:

22 (a) before and after childbirth, for a period of a least 16 weeks of

23 which at least 8 weeks shall be before the expected date or childbirth; or

24 (b) for additional periods in respect of which a medical certificate

25 by a registered medical practitioner is produced slating that it IS necessary

26 for the health of the mother or child during pregnancy or during a specified

27 time beyond the period after childbirth.

28 **PART VI - GENERAL PROVISION AND ENFORCEMENT POWERS**

29 **51.-(1)** It shall be the duty of every employer to keep such records

30 of remuneration and conditions of employment as are necessary to show that

Records

1 this Act is being complied with.

2 (2) Without prejudice to the generality of subsection (1) of this section
3 and the requirement of any other law, every employer shall keep in respect of
4 each of his employees to whom a statement has been given under section IS of
5 this Act, a record showing-

6 (a) the name and address of the employee;

7 (b) his or her town (or other place) of origin;

8 (c) the date of his or her birth;

9 (d) the name and address of his or her next of kin;

10 (e) the date and place of his or her engagement;

11 (f) the Nigerian Social Insurance Trust Fund particulars;

12 (g) the date of cessation of employment; and

13 (h) such other record as may be necessary or required, from time to
14 time, under any enactment or law.

Authorized
labour officer

15 52. The Minister may under his hand authorise-

16 (a) any public officer serving in a ministry or department for which
17 the Minister is responsible; and

18 (b) any public officer being a person who has received training in
19 labour matters, to be a authorized labour officer.

Power of
authorized
labour officer

20 53. Except as otherwise provided in this Act, an authorized labour
21 officer may for the purposes of facilitating or ensuring the proper operation of
22 this Act-

23 (a) enter, inspect and examine by day or night any labour
24 encampment, farm, factory or other land or workplace whatsoever, including
25 every part thereof, if he has reasonable cause to believe that any employee is
26 employed therein or thereon;

27 (b) enter, inspect and examine by day any premises provided by an
28 employer in which he has reasonable cause to believe that employees are
29 living;

30 (c) enter, inspect and examine any hospital building, sanitary

1 convenience, messroom or water supply provided for or used by employees;

2 (d) take with him a police officer if he has reasonable cause to
3 apprehend any serious obstruction in the execution of his functions;

4 (e) require the production of any registers, certificates, notices or
5 other documents kept in pursuance of this Act and inspect, examine and
6 copy any of them;

7 (f) make such examination and enquiry as may be necessary to
8 ascertain whether the provisions of this Act are being complied with, so far
9 as respects any labour encampment, farm, factory or other land or workplace
10 whatsoever and any person employed therein or thereon as the case may be;

11 (g) inspect and examine all food provided for the use of employees
12 and take samples thereof, so however that-

13 (i) any sample taken pursuant to this paragraph shall be taken in
14 duplicate in the presence of the employer of the employees or, if the
15 employer is not readily available, in the presence of a foreman or other
16 responsible person and shall be labelled and sealed in the presence of the
17 employer, foreman or other responsible person, and

18 (ii) one sample so labelled and sealed shall be left with the
19 employer, foreman or other responsible person.

20 (h) take or remove for the purpose of analysis, samples of materials
21 and substances used or handled by employees from premises not covered by
22 the Factories Act, subject to the employer or his representative being
23 notified and given an opportunity to be present when the samples are taken;

24 (i) interrogate, either alone or in the presence of another person as
25 he thinks fit, with respect to matters to which this Act relates, any person
26 whom he or she finds in or on any labour encampment, farm, factory or other
27 workplace whatsoever or whom he is she has reasonable cause to believe has
28 been within the preceding 3 months employed in or on any labour
29 encampment, farm, factory or other land or workplace whatsoever, so
30 however that no person shall be forced to answer any question tending to

1 incriminate himself or herself; and

2 (j) direct any person who has in his opinion contravened any
3 provision of this Act, to remedy the contravention within a specific period and
4 failing which the authorised labour officer shall apply to the National Industrial
5 Court for an order to comply and the decision of the National Industrial Court
6 shall be final.

Delegation of
functions

7 54.-(1) Subject to this section, the Minister may delegate any of his
8 functions under this Act to any public officer serving in a ministry or
9 department of which the Minister is responsible.

10 (2) Subsection (1) of this section shall not apply to the power of
11 delegation conferred by that subsection or to any power to make regulations.

12 (3) A delegation under subsection (1) of this section may -be made
13 subject to such conditions and limitations, if any, as the Minister thinks fit in the
14 circumstances.

15 (4) The delegation of a function under subsection (1) of this section
16 shall not prevent the Minister from continuing to exercise the function himself
17 if he deems it fit.

Settlement of
disputes of
rights

18 55.-(1) All disputes shall be referred by aggrieved person within 7
19 days in the first instance to conciliation either voluntarily or in the National
20 Commission for Conciliation and Arbitration established under the National
21 Commission for Conciliation and Arbitration Act which shall take place within
22 21 days of referral which period can be extended by agreement.

23 (2) If settlement by conciliation fails, the aggrieved person shall,
24 within 90 days, apply to the National Industrial Court for adjudication.

25 (3) The period may be extended if good cause for late referral or
26 application is shown.

27 (4) Adjudication pursuant to subsection (2) of this section shall be
28 final and binding.

29 (5) Notwithstanding anything to the contrary in any other enactment
30 or law, there shall be no right to strike over rights disputes.

1 (6) Where a right dispute has been adjudicated upon and a party
2 fails to comply with the order granted pursuant thereto, the aggrieved party
3 may treat the disobedience as a dispute of interest.

4 (7) The disputes for which the National industrial Court is a court
5 of first instance shall include disputes arising from-

6 (a) right of an employee to join an association concerning his
7 employment;

8 (b) right of an employee not to be employed against his consent;

9 (c) child labour including the worst form of child labour;

10 (d) equal opportunity in employment and occupation; and

11 (e) sexual harassment in workplace.

12 (8) In adjudication of the matters listed in subsection (7) of this
13 section, there shall be a right of appeal to the Court of Appeal.

14 56.-(1) Subject to this section, nothing in this Act shall prevent any
15 employer, employee or other person to whom this Act applies from
16 enforcing his rights or remedies in respect of any breach or non-performance
17 of any lawful contract of employment made outside Nigeria, and the rights
18 of the parties under such a contract (both against each other and against third
19 parties infringing those rights) may be enforced in the same manner as other
20 rights arising outside Nigeria may be enforced and as if this Act had not been
21 made.

Contracts of
employment made
abroad. Cap. 333
LFN

22 (2) Where a contract of employment made outside Nigeria has
23 been executed in conformity with this Act, it shall be enforced in the same
24 manner as a contract entered into under this Act.

25 (3) A written contract made outside Nigeria which has been
26 executed otherwise than in conformity with this Act shall not be enforced
27 against an employee to whom this Act applies if he or she is unable to read
28 and understand the language in which the contract is written.

29 (4) For the purposes of this section, a contract of employment shall
30 be deemed to be executed in conformity with this Act if-

1 (a) it is signed by the names or marks of the parties;

2 (b) it bears an attestation to the effect that the contract was read over
3 and explained to the parties in the presence of the person attesting; and

4 (c) it was entered into by the parties voluntarily and with full
5 understanding of its meaning and effect.

6 (5) The attestation referred to in subsection (4) of this section may be
7 made by any Nigerian official entitled to act under section 12 of the Oaths Act
8 or by any judicial or other authority authorised by the law of the place where the
9 contract was made to exercise the functions of a notary public or equivalent
10 functions.

Power to make
Regulations

11 **57.-(1)** The Minister may, on the recommendation of the National
12 Labour Council (established under the Labour Institutions Act), make
13 Regulations generally for giving full effect to the provisions of this Act.

14 (2) Without prejudice to the generality of the provisions of subsection
15 (1) of this section, the Minister may, on the recommendation of the National
16 Advisory Council, make specific Regulations-

17 (a) prescribing different intervals constituting "night" for different
18 areas, industries, undertakings or branches of industries or undertakings, and in
19 consultation with the relevant employers associations and employees
20 organisations prescribing an interval beginning after eleven o'clock in the
21 evening;

22 (b) providing for the registration and identification of young persons;

23 (c) prescribing any records to be kept and any returns to be made by
24 employers of young persons;

25 (d) prescribing additional conditions upon which young persons may
26 be engaged or employed;

27 (e) making provisions for the employment and care of young persons
28 by employers;

29 (f) the terms and conditions of contracts of apprenticeship;

30 (g) in consultation with relevant stakeholders in the industry or

1 undertaking, restricting employment of women in any particular process or
2 work carried on by any undertaking or industry;

3 (h) prescribing the conditions under which recruited employees
4 may be transported by road, sea or air including provisions for compliance
5 with immigration laws and for the recovery of any expenses incurred by the
6 Federal Government in repatriating any employee; and

7 (i) regulating the requisition of labour of the kind defined in section
8 34 (2) (d) and (e) (i) of the Constitution of the Federal Republic of Nigeria,
9 1999 (relating to labour required in the event of any emergency or calamity
10 threatening the life or well-being of the community, and labour that forms
11 part normal communal or other civil obligations).

12 **58.** The Minister may, on the recommendation of the National
13 Labour Council, by order exempt from the application of certain provisions
14 of this Act, limited categories of employees in respect of which special
15 problems of a substantial nature arise in the light of particular conditions of
16 employment of the employee concerned or in the light of the size or nature of
17 the undertaking concerned.

Exemptions

18 **59.**-(1) The Labour Act 1990 (in this Act referred to as "the
19 repealed enactment") is hereby repealed.

Repeal (of Cap.
198 LFN) and
transitional
provisions.
Second Schedule

20 (2) Notwithstanding subsection (1) of this section or any other
21 provision of this Act, the transitional and saving provisions contained in the
22 Second Schedule to this Act shall have effect with respect to anything done
23 or purported to have been done under the repealed enactment.

24 **60.** In this Act, unless the context otherwise requires-

Interpretation

25 "AIDS" means the Acquired Immune Deficiency Syndrome, a cluster of
26 medical conditions often referred to as opportunistic infections and cancers
27 and for which to date, there is no cure;

28 "Authorized labour officer" means an official of the Federal Ministry of
29 Employment, Labour and Productivity who is authorised under the hand of
30 the Minister;

- 1 "citizen" means citizen of Nigeria;
- 2 "child" means a person under the age of 15 years;
- 3 "collective agreement" means an agreement in writing regarding working
4 conditions and terms of employment concluded between-
- 5 (a) an organisation of employees or an organisation representing
6 employees (or an association of such organisations) of the one part, and
7 (b) an organisation of employers or an organisation representing
8 employers (or an association of such organisation) of the other part;
- 9 "collective bargaining" means the process of arriving or attempting to arrive at
10 a collective agreement;
- 11 "contract of apprenticeship" means any agreement whether oral or written,
12 express or implied, whereby one person agrees to train another person for a
13 trade or employment in which art or skill is required;
- 14 "contract of employment" means any enforceable agreement, whether oral or
15 written, express or implied, whereby one person agrees to employ another as an
16 employee and the other person agrees to work for the employer;
- 17 "discrimination" means any distinction, exclusion or preference which has the
18 aim or the direct or indirect effect of nullifying or impairing the quality of
19 opportunity or treatment in employment or occupation;
- 20 "domestic servant" means any employee engaged in any house, stable or
21 gardening work or in connection with the domestic services of any private
22 dwelling house;
- 23 "employee" means any person employed by another under oral or written
24 contract of employment whether on a continuous, part-time, temporary or
25 casual basis and includes a domestic servant who is not a member of the family
26 of the employer;
- 27 "employer" means any individual or body corporate who has entered into a
28 contract of employment to employ any other person as an employee or
29 apprentice;
- 30 "family" includes any parent, spouse, child and ward of an employee or

- 1 employer as the case may be;
- 2 "foreign contract" means a contract for employment of a citizen outside
- 3 Nigeria;
- 4 "function" includes powers and duties;
- 5 "guardian" includes any person to whose care a young person has been
- 6 committed (even temporarily) by a person having authority over the young
- 7 person, and person lawfully having charge of a young person who has no
- 8 parents or whose parents are unknown;

9 **61.** This Act may be cited as the Labour Standards Bill, 2015.

Short Title

10 FIRST SCHEDULE

11 Sections 6 (1) & (2), 9 (3), 10 (2), 30, 44 and 45

12 SCALE or PENALTIES

13 Administrative Penalties:

- | | | |
|----|-------------------------------|------|
| 14 | (a) 1st Contravention | Nx |
| 15 | (b) 2nd Contravention | N2x |
| 16 | (c) 3rd Contravention | N4x |
| 17 | (d) Any further contravention | N10x |

18 Maximum Fines for Offences:

- | | | |
|----|-------------------------------|------|
| 19 | (a) 1st Contravention | Ny |
| 20 | (b) 2nd Contravention | N4y |
| 21 | (c) Any further contravention | N10y |

22 SECOND SCHEDULE

23 *Section 59 (2)*

24 TRANSITIONAL AND SAVING PROVISIONS

- 25 1. Contracts of employment which were in force immediately
- 26 before the commencement of this Act shall remain in force on the same
- 27 terms and conditions, but shall be subject to this Act, and no such terms or
- 28 conditions shall prevail against any provision of this Act unless an
- 29 authorized labour officer on the application of a party to the contract of
- 30 employment in question decides that the interests of the parties or the

1 circumstances of the case require that the term or condition in question shall so
2 prevail.

3 2. Any subsidiary legislation or instrument made or deemed to have
4 been made under the repealed enactment which was in force immediately
5 before the commencement of this Act shall remain in force, subject to any
6 necessary modification, as if it had been made under this Act, and may be added
7 to, amended, revoked or varied accordingly.

8 3. The repeal of the enactment mentioned in section 59 (1) of this Act
9 shall not affect anything done or purported to have been done under the
10 repealed enactment.

11 "HIV" means the Human Immunodeficiency Virus which is a virus that
12 weakens the body's immune system, ultimately causing AIDS;

13 "industrial employee" includes any artificer, journeyman, handicraftsman,
14 canoe man, carrier, messenger, clerk, shop assistant, storekeeper, labourer,
15 agricultural labourer, hotel or catering employee or apprentice and any person
16 or class of persons gainfully employed or normally seeking a livelihood by
17 gainful employment declared to be such by the Minister by order;

18 "industrial undertaking" includes-

19 (a) mines, quarries and other works for the extraction of minerals
20 from the earth;

21 (b) industries in which articles are manufactured, altered, cleaned,
22 repaired, ornamented, finished, adapted for sale, broken up or demolished or in
23 which materials are transformed, including shipbuilding and the generation
24 and transmission of electricity or motive power of any kind;

25 (c) the construction, reconstruction, maintenance, repair, alteration or
26 demolition of any building, railway, tramway, harbour, dock, canal, inland
27 waterway, road, tunnel, bridge, viaduct, sewer, drain, well telegraph or
28 telephone installation, electrical undertaking, gasworks, waterworks, or other
29 works of construction as well as the preparation for or the laying of the
30 foundation of any such work or structure;

1 (d) transport of passengers or goods by road, rail, air, sea or inland
2 waterways, including the handling of goods at docks, quays, wharves,
3 warehouses and airports, including the carrying of coal or other materials by
4 hand to and from lighters or ships; and

5 (e) any scientific and research undertaking;

6 "industry" includes trade;

7 "light work" means a work which does not exceed 14 hours per week or 2
8 hours per day whether on school days or holidays;

9 "mine" includes any place,; excavation or working whereon, wherein or
10 whereby any operation in connection with mining or winning minerals is
11 carried out;

12 "National Commission for Conciliation and Arbitration" is the National
13 Commission-for Conciliation and Arbitration established, under the Labour
14 Institutions Act 2005;

15 "night" means a period of at least 12 consecutive hours from 6 o'clock in the
16 evening to 6 o'clock in the morning;

17 "public officer" has the same meaning as in the Constitution of the Federal
18 Republic of Nigeria 1999;

19 "recruiter" means any person, firm or body corporate who, for a fee, recruits
20 any person for purposes of working for another in or outside. Nigeria;

21 "recruiter's licence" means a recruiter's licence granted pursuant to section
22 31 of this Act;

23 "recruiting" includes all operations undertaken with the object of obtaining
24 or supplying the labour of persons who do not spontaneously offer their
25 services at the place of employment, at a public emigration or employment
26 office;

27 "redundancy" means' an involuntary: and permanent loss of employment
28 due to excess of manpower, technological or structural changes;

29 "remuneration" means wages; salaries or earnings (however designated or
30 calculated) capable of being expressed in terms of money and fixed by

- 1 mutual agreement or by law which are payable by an employer to an employee
2 for work done or to be done or services rendered or to be rendered;
- 3 "screening" means measures whether direct HIV testing or indirect assessment
4 of risk-taking behaviour or asking questions about tests already taken or about
5 medication;
- 6 "sexual harassment" means any unwelcome sexual advance, conduct or
7 request made by an employer, manager, supervisor or a co-employee to an
8 employee, whether the employee is a man or woman and includes any conduct
9 of a sexual nature which creates an intimidating; hostile, degrading or
10 offensive environment;
- 11 "vessel" includes floating craft of every description except ships of war;
- 12 "young person" means any person under the age of 18 years.

EXPLANATORY MEMORANDUM

The Bill seeks to repeal the Labour Act 1990 and set minimum standards for terms and conditions of employment in Nigeria including recruitment for employment in foreign countries.