

# LAWS OF FIJI

## CHAPTER 92

### EMPLOYMENT ORDINANCE

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## EMPLOYMENT

*Ordinances Nos. 15 of 1964, 37 of 1966, 2 of 1968, 26 of 1970, Acts Nos. 31 of 1975, 14 of 1975, 21 of 1976.*

### AN ACT TO PROVIDE FOR THE CONTROL OF CONDITIONS OF EMPLOYMENT

[15th May, 1965]

#### PART I—PRELIMINARY

##### *Short title and application*

- 1.—(1) This Act may be cited as the Employment Act.
- (2) Subject to the provisions of subsection (3), the provisions of this Act shall apply to the Government of Fiji and to all the persons in the service of that Government:  
Provided that the provisions of this Act shall not apply to:—

1. persons in the naval, military or air services of the Crown (other than locally engaged civilian employees);
2. members of the Royal Fiji Police Force;
3. members of the Fiji Prisons Service.

(3) The Minister may by order exclude any person or class of persons or any public authority or class of public authorities or any contract or transaction or class of contracts or transactions from the operation of all or any of the provisions of this Act. (*Substituted by 31 of 1975 s. 2.*)

##### *Interpretation*

2. In this Act, unless the context otherwise requires—
  1. means the actual age or where this cannot be determined the apparent age;
  2. "agricultural undertaking" means any work in which any person is employed under a contract of service for the purposes of agriculture, horticulture or silviculture, the tending of animals or poultry or the collection of the produce of any plants or trees;
  3. "Board" means the Labour Advisory Board constituted under the provisions of this Act;

4. "casual employee" means any employee the terms of whose engagement provide for his payment at the end of each day's work and who is not engaged for a longer period than twenty-four hours at a time;
5. "child" means a person who has not attained the age of fifteen years;
6. "clerical work" includes work performed by office messengers;
7. "commercial undertaking" includes—
8. commercial establishments and offices, including establishments engaging wholly or mainly in the sale, purchase, distribution, insurance, negotiation, loan or administration of goods or services of any kind;
9. establishments for the treatment or care of the aged, infirm, sick, destitute or mentally unfit;
10. hotels, restaurants, boarding houses, clubs, restaurant bars and other places of refreshment;
11. theatres and places of public amusement;
12. establishments for the instruction, education and care of children or young persons;
13. broadcasting, postal and telecommunication services;
14. film studios;
15. newspaper undertakings; and
16. any establishment similar in character to those enumerated in sub-paragraphs (a) to (h) above;
17. "confinement" means parturition resulting after at least twenty-eight weeks of pregnancy in the issue of a child or children, whether alive or dead, and shall for the purposes of this Act commence and end on the actual day of birth, and when two or more children are born at one confinement shall commence and end on the day of the birth of the last born of such children and the word "confined" shall be construed accordingly;
18. "contract of service" means any contract, whether oral or in writing, whether express or implied, to employ or to serve as an employee for any period of time or number of days to be worked, or to execute any task or piece work or to perform for wages any journey and includes a foreign contract of service;
19. "contract period" means the period of time or number of days or hours to be worked for which expressly or by implication a contract of service is made;
20. "court" means a court of a resident or second class magistrate;
21. means a period of twenty-four hours beginning and ending at midnight;
22. "domestic servant" means a person employed in connexion with the work of a private dwelling-house and not in connexion with any trade, business or profession carried on by the employer in such dwelling-house and includes a cook, house servant, child's nurse, gardener, washerwoman, watchman and driver of any vehicle licensed for private use;
23. "employ" in relation to the person employing, means to use as employer the services of any person under a contract of service;
2. "employee" means any person employed on a contract of service for wages and includes an apprentice or a domestic servant;
3. "employer" means any person or any firm, corporation or company, public authority or body of persons who or which has entered into a contract of service to employ any person and includes any agent, foreman, manager or factor of such person, firm, corporation, company, public authority or body of persons who is placed in authority over such person employed, and where an employee has entered into a contract of service with the Government or with any officer on behalf of the Government, any

Government officer under whom such employee is working shall be deemed to be his employer:

4. Provided that no Government officer shall be personally liable under this Act for anything done by him as an officer of the Government in good faith;
  1. "employment" means the performance by an employee of a contract of service;
  2. "factory" has the meaning assigned to it in the Factories Act; (Cap. 99.)
  3. "family" in relation to an employee means the husband or wife and the unmarried dependent children, if any, under the age of eighteen of the employee;
  4. "foreign contract of service" means a contract of service made within Fiji and to be performed wholly or partially outside Fiji and any contract of service with a foreign state;
  5. "fortnight" means any period of fourteen consecutive days;
  6. "Government" means the Government of Fiji and for the purpose of avoiding doubt, the Minister by notice, may include or exclude any person from this definition;
  7. "Government officer" means an officer of the Government;
  8. "guardian" includes any person lawfully having charge of a child or young person who has no parents or whose parents are unknown and any person to whose care any child or young person has been committed, even temporarily, by a person having authority over him;
  9. "health inspector" means a health inspector in the service of the Government or of a local authority;
  10. "industrial undertaking" means—
    1. mines, quarries, factories, reduction mills and other works for the winning, treatment or extraction of minerals from the earth, sea, rivers or inland waters;
    2. industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including shipbuilding, and the generation, transformation and transmission of electricity and motive power of any kind;
    3. the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, airfield, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas works, water works, or other work of construction as well as the preparation for, or laying the foundations of, any such work or structure;
    4. the transport of passengers or goods by air, road, rail or inland waterway including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand;
    5. any factory;
    6. any other type of undertaking which may be prescribed;
  11. "labour inspector" means a labour inspector in the service of the
  12. Government;
  13. "labour officer" includes any person authorised in writing by the Minister to
  14. perform the duties of a labour officer;
  15. "local authority" includes a city council, town council and a district council;

16. "medical officer" means any medical officer in the service of Government or any other registered medical practitioner appointed by the Permanent Secretary for Health to be a medical officer for the purposes of this Act;
17. "mine" includes any undertaking, whether public or private, for the
18. winning, treatment or extraction of minerals from the earth, sea, rivers or inland waters;
19. "mineral" means all mineral substances including mineral oils;
20. "month" means a calendar month, or a period commencing on any date in calendar month and expiring on the day preceding the corresponding date in the succeeding calendar month;
21. "contract" means a contract of service which, under the provisions of Part V, is not required to be made in writing, but which may nevertheless be subsequently evidenced in writing;
22. "Permanent Secretary" means the Permanent Secretary for Labour;
23. "piece work" means any work the pay for which is estimated by the amount of work performed irrespective of the time occupied in its performance;
24. "place of employment" means any place where work is carried on for an employer by an employee;
25. "prescribed" means prescribed by regulations made under this Act;
26. "professional undertaking" means any undertaking engaged wholly or mainly in providing a service of advice and assistance in relation to any matter calling for the exercise or application of skill of a specialised nature, character or kind;
27. "proper authority" means the Permanent Secretary or any other person or persons appointed by him for the carrying into effect of this Act or any Part or provision thereof;
28. "public authority" includes a department of Government and a local authority;
29. "public officer" includes a Government officer and an officer of a local authority;
30. "ship" includes any vessel or boat, of any nature whatsoever, engaged in navigation, whether publicly or privately owned, but does not include a ship of war:
31. Provided that the Minister may by notice in the Gazette exclude from this definition ships of less than a prescribed maximum tonnage and carrying a crew of less than a prescribed maximum number;
32. "task" means such amount of work as in any area as customarily performed in the trade, industry, occupation or undertaking concerned in an ordinary working day;
33. "undertaking" means an agricultural, commercial, professional or industrial undertaking;
34. "wages" means, for the purposes of this Act, all remuneration which is payable to an employee for work done in respect of his contract of service but does not include—
  1. the value of any house, accommodation or the supply of any food, fuel, light, water or medical attendance, or any amenity or services excluded by general or special order of the Minister;
  2. any contribution paid by the employer on his own account to any pension fund or provident fund;
  3. any travelling allowance or the value of any travelling concession;

4. any sum payable to the employee to defray special expenses incurred by him by the nature of his employment; ;or
5. any gratuity payable on discharge or retirement;
35. “period” means the period in respect of which wages earned by a worker are payable:
36. Provided that no wage period shall extend for a longer period than one month;
37. “week” means any period of seven consecutive days;
38. “woman” means a female of the age of eighteen years or upwards;
39. “written contract” means a contract of service which, under the provisions of Part VI, is required to be made in writing;
40. “young person” means a person of or over the age of fifteen but under the age of eighteen years.

*(Section amended by 2 of 1968, s. 3, 26 of 1970, s. 2, 31 of 1975, s. 3, 14 of 1975, s.20.)*

## PART II – LABOUR ADVISORY BOARD

### *Labour Advisory Board*

3.—(1) There is hereby established a Labour Advisory Board which shall consist of such Government officers and representatives of employers and employees and such other persons as the Minister may appoint thereto.

(2) The chairman of the Board shall be appointed by the Minister.

(3) The Permanent Secretary shall appoint a suitable person to be secretary to the Board.

(4) Subject to the provisions of this section, the Board may regulate its own procedure.

(5) The Board shall cause proper records of its proceedings to be kept.

### *Duties of Board*

4. The Board shall consider and advise the Minister upon matters connected with employment and labour and upon any questions referred to the Board by the Minister.

## PART III—APPOINTMENT, POWERS AND DUTIES OF OFFICERS

### *Appointment of officers*

5.—(1) The Public Service Commission may appoint a Permanent Secretary for Labour, and such other officers as may be necessary for the purposes of the administration of this Act.

(2) Any officers appointed under or for the purposes of administration of the Labour Ordinance shall, notwithstanding any repeal thereof, be deemed to have been appointed for the purposes of this Act.

*(Cap. 92 1955 Edition)*

### *Delegation by Permanent Secretary*

6. The Permanent Secretary may delegate in writing to any Government officer the exercise of any of his powers and the performance of any of his duties either in Fiji as a whole or in any part thereof in relation to any matter or thing provided for by this Act.

### *Permanent Secretary may call for returns*

7. In addition to any other powers conferred upon him under the provisions of this Act, the Permanent Secretary may require any employer to furnish in writing returns and statistics, whether periodically or otherwise, as to the number of employees employed by him in any particular employment and the rates of remuneration and the conditions generally affecting such employment.

#### *Institution of proceedings*

8. The Permanent Secretary, any labour officer, or any labour inspector authorised by the Permanent Secretary in writing, may—

1. institute proceedings in respect of any offence committed by any person against any of the provisions of this Act, and may prosecute and may appear in such proceedings;
2. institute or appear or institute and appear on behalf of any employee in any civil proceedings by an employee against his employer in respect of any matter or thing or cause of action arising out of or in the course of the employment of such employee.

#### *Powers of officers*

9.—(1) For the purpose of satisfying himself that the provisions of this Act are being duly observed the Permanent Secretary, any labour officer, medical officer, health inspector or labour inspector may at all reasonable times—

1. enter, inspect and examine any land, building, camp, wharf, vessel or vehicle, or any place whatsoever where or about which any employee is housed or employed or where there is reason to believe that any employee is housed or employed;
2. enter, inspect and examine any hospital or dispensary, or any latrines or other sanitary arrangements used or intended to be used by employees in any place or building or any water supply available for the use of employees, and take samples from the said water supply, and inquire and ascertain whether in any such hospital, dispensary or place of employment suitable medicines and remedies are provided for the use of employees;
3. inspect and examine kitchens and places in which food provided for the use of employees is stored, prepared or eaten, and inspect, examine and take samples of all such food;
4. require any employer to produce any employee employed by him and any documents or records which the employer is required to keep under the provisions of this Act or the Fiji National Provident Fund Act or any other documents or records relating to the employment of such employee, and for this purpose, may by notice in writing served on an employer in accordance with the provisions of subsection (6) of section 2 of the Interpretation Act or in any case by sending it by registered post to an employer's address, require such production at any place reasonably accessible to such employer on a date and at a time specified in such notice provided that the date so specified shall

not be less than fourteen days from the date of service of such notice and the notice shall be deemed to have been served upon the employer when the notice would arrive at the nearest post office in the ordinary course of post; (*Cap. 219. Cap. 7.*)

*(Substituted by 31 of 1975, s. 4)*

1. take or remove for the purposes of analysis samples of material and substances used or handled, subject to the employer or any person acting on his behalf being notified of any samples or substances taken or removed for this purpose;
2. interrogate, alone or in the presence of witnesses, the employer or any person employed by him on any matter connected with the employment of any person or the carrying out of the provisions of this Act, and may make application for information to any other person whose evidence is considered to be necessary;
3. inquire from any employer or any person acting on his behalf regarding any matters connected with the carrying out of any of the provisions of this Act:

Provided that the Permanent Secretary, officer or inspector, as the case may be,

4. shall not enter or inspect a private dwelling-house without the consent of the occupier thereof;
5. on the occasion of a visit or inspection, shall notify the employer or his representative of his presence, unless he has reasonable ground for believing that such notification may be prejudicial to the performance of his duties;
6. is so required by the employer, shall be accompanied during any inspection or examination by the employer or his representative.

(2) The Permanent Secretary, and any labour officer, medical officer, health inspector or labour inspector may at all reasonable times inspect and take samples of and require any additions or replacements to be made to any drugs or dressings provided for the use or benefit of employees under the provisions of this or any other Act or contract of service.

(3) If, in the opinion of the Permanent Secretary or any labour officer, any land, building, camp or vessel where or about which any employee is living or where any employee is employed or which is provided for the use of an such employee is insanitary or is in such condition as to be dangerous to health or unfit for occupation or use by such employee, the Permanent Secretary or such labour officer may in writing direct the person for the time being responsible for the management of the same to discontinue such occupation or use from a date to be specified in such direction until such requirements of repair or reconstruction or otherwise as may be specified in the direction have been fulfilled and until the same has been certified by the Permanent Secretary or such officer to be fit for further occupation or use.

(4) The Permanent Secretary, any labour officer or labour inspector may copy or make extracts from any document or records in the possession of any employer which relate to any employee.

(5) The provisions of this section shall be in addition to and not in derogation from any other powers or duties conferred or imposed upon any person by the provisions of this Act.

#### *Appeal*

**10.**—(1) Where, under the provisions of subsection (3) of section 9, the Permanent Secretary or any labour officer gives any direction, the person to whom the direction is addressed, if he is of the opinion that the terms of such direction are harsh or unreasonable or that the requirements of the direction cannot be carried out within a reasonable time, may, after giving notice thereof to the Permanent Secretary, appeal to a court of a resident magistrate having jurisdiction nearest to the place where such land, building, camp or vessel is situated.

(2) Every such appeal shall be made within thirty days from the date on which the said direction was communicated to such person.

#### *Duties of officers*

**11.**—(1) Subject to such exceptions as may be prescribed by the Minister, the Permanent Secretary, a labour officer or labour inspector—

2. shall not have any direct or indirect interest in any undertaking under his supervision;
3. shall not make use of or reveal, even after leaving Government service, any manufacturing or commercial secrets or working processes which may come to his knowledge in the course of his duties.
4. shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions relating to conditions of work and the protection of workers while engaged in their work, and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint. (*Inserted by 2 of 1968, s. 4.*)

(2) Any Government officer who contravenes any of the provisions of subsection (1) shall commit an offence against this Act and shall be liable on conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years.

#### *Offence to delay or obstruct officer*

**12.**—(1) Every person who wilfully delays or obstructs the Permanent Secretary or any labour officer, medical officer, health inspector or labour inspector while such officer or inspector is exercising any power or performing any duty conferred or imposed upon him by this Part or who fails to comply with any direction, requirement, request, demand or inquiry of such

officer or inspector made or given in pursuance of any powers conferred on him by this Part or who conceals or prevents any person from appearing before or being examined by such officer or inspector shall commit an offence against this Act and each such offending person shall be liable on conviction to a fine not exceeding two hundred dollars and in the case of a continuing offence to a fine not exceeding ten dollars per day for every day during which the offence continues.

*(Amended by 26 of 1970, s. 3.)*

(2) If any person makes or causes to be made or knowingly allows to be made any entry in a record required by this Part to be kept by employers, which he knows to be false in a material particular, or for purposes connected with this Part produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred dollars or to a period of imprisonment not exceeding six months or to both such fine and imprisonment. *(Inserted by 31 of 1975, s. 5.)*

#### PART IV—CONTRACTS OF SERVICE GENERALLY

*Employment to be in accordance with Act*

**13.—**(1) No person shall employ any employee and no employee shall be employed under any contract of service except in accordance with the provisions of this Act.

(2) Notwithstanding anything to the contrary contained in any law for the time being in force in Fiji, the attestation of any contract entered into under the provisions of this Act shall be exempt from stamp duty.

#### *Existing contracts to continue in force*

**14.** All contracts of service valid and in force at the commencement of this Act shall continue to be in force after such commencement and to the extent that the same are not in conflict with the provisions of this Act shall be deemed to be made under this Act and the parties thereto shall be subject to and entitled to the benefit of the provisions hereof.

#### *Contracts of service, oral and written*

**15.—**(1) Contracts of service may be oral or written contracts.

(2) The provisions of this Part shall, unless the contrary intention appears, apply to both oral and written contracts.

#### *Duty of employer to provide work*

**16.** Every employer shall, unless the employee has broken his contract of service or the contract is frustrated or its performance prevented by act of God, provide his employee with work in accordance with the contract during the period for which the contract is binding on a number of days equal to the

number of working days expressly or impliedly provided for in the contract, and if the employer fails to provide work as aforesaid he shall pay to the employee, in respect of every day on which he shall so fail, wages at the same rate as if the employee had performed a day's work.

*Contract expiring on journey may be prolonged*

17. If the contract period in any contract of service shall expire, or if an employee shall seek to terminate any contract of service wherein no agreement is expressed respecting the contract period whilst the employee is engaged in any voyage or journey, the employer may, for the purpose of completing such voyage or journey, prolong the contract period by a period of time sufficient to enable the voyage or journey to be completed:

Provided that no such contract shall be prolonged pursuant to the provisions of this section for a longer period of time than three months without the written permission of the Permanent Secretary being first obtained.

*Death of employee*

18. In the case of an employee dying during the contract of service the employer shall, as soon as practicable after the death of the employee, pay or deliver to any district officer or labour officer all wages and other remuneration due to the deceased employee and all property belonging to the deceased employee and such district officer or labour officer shall pay such wages or other remuneration or deliver such property to any person entitled to receive them.

*(Amended by Act 31 of 1975, s. 6.)*

*No wages to be payable to employee for period of imprisonment*

19. No wages shall be payable by an employer to any employee in respect of the period of any imprisonment under any law.

PART V—ORAL CONTRACTS OF SERVICE

*Application*

20. The provisions of this Part shall apply to oral contracts.

*Contracts not required to be in writing*

21. All contracts of service, other than contracts which are required by this Act or any other law to be made in writing, may be made orally.

*Presumption as to period of oral contracts and termination of oral contracts*

22.—(1) In the absence of any proof to the contrary, an oral contract shall, subject to the provisions of subsection (3), be deemed to be a contract

for the period by reference to which wages are payable under the contract but in any case shall not extend for a period longer than one month from the making thereof:

Provided that where wages are payable at intervals of less than a day, then in the absence of any proof to the contrary, any such oral contract as aforesaid shall be deemed to be a daily contract. (*Amended by Act 2 of 1968, s. 5.*)

(2) Subject to the provisions of subsection (3) and any proof to the contrary, an oral contract shall terminate on the last day of the contract period, or in the case of a daily contract at the end of the day.

(3) Where an oral contract which would, under the provisions of subsection (1), be deemed to be a monthly contract, is entered into after the first day of any calendar month, the following provisions shall, subject to any proof to the contrary, have effect—

1. the contract shall, until the expiry of the calendar month during which it was entered into, be deemed to be a contract for the period commencing on the day on which it was entered into and terminating on the last day of the calendar month during which it was entered into;
2. notwithstanding the provisions of paragraph (a), if, after the termination of such contract under the provisions of that paragraph, a new contract is deemed or presumed to have been entered into under the provisions of section 23 the period of the new contract shall be presumed or deemed, as the case may be, to be the full calendar month next ensuing after such termination.

#### *Presumption as to new contract*

**23.**—(1) Subject to the provisions of subsection (3) of section 22 and subsection (2) of section 25, each party to an oral contract shall, on the termination of the contract under subsection (2) or (3) of section 22 be conclusively presumed to have entered into a new oral contract for the same period and upon the same terms and conditions as those of the contract then terminated, unless notice to terminate the employment has been previously given by either party in accordance with the provisions of section 24.

Provided that nothing in this subsection shall apply to—

3. a contract specifically expressed to be terminable without notice; or
4. a contract specifically expressed to be for one period of fixed duration and not renewable; or
5. a daily contract where the wages are paid daily.

(2) Where notice has been given to terminate any employment, but after the termination of the current contract period the employer suffers the employee to remain or the employee, without the express dissent of the

employer, continues in employment then, unless the contrary is shown, such notice shall be deemed to be withdrawn with the consent of both parties and the parties shall, subject to the provisions of subsection (3) of section 22, be deemed to have entered into a new contract for the same period and upon the same terms and conditions as those of the contract previously concluded.

*Provisions as to notice*

**24.—**(1) For the purposes of subsection (1) of section 23, an oral contract shall, subject to any specific agreement to the contrary that may be made between the parties, be terminable by either party—

6. where the contract period is less than one week and wages are paid at intervals of less than one week, at the close of any day without notice;
7. where the contract period is one week or more but less than a fortnight or where wages are paid weekly or at intervals of more than a week but less than a fortnight, by not less than seven days' notice before the expiration of such period;
8. where the contract period is a fortnight or more but less than a month or where wages are paid fortnightly or at intervals of more than a fortnight but less than a month, by not less than fourteen days' notice before the expiration of such period;
9. where the contract period is one month, by not less than one month's notice before the expiration of such period.

(2) Notice may be given orally or in writing.

*(Substituted by Act 2 of 1968, s. 6.)*

*Further provisions as to termination of contracts*

**25.—**(1) Where an oral contract is terminated and no new contract is entered into or is presumed or deemed to have been entered into under the provisions of section 23, there shall be paid to the employee all wages and benefits then due to him.

(2) Notwithstanding the provisions of section 22 or 23 either party to an oral contract may terminate the same at any time under the following conditions:—

10. in the case of a contract to which subsection (1) of section 22 applies—
11. if such contract is terminated on or prior to the last date by which the minimum notice may be given under section 24, upon payment to the other party of a sum equal to all wages which would have been due to the employee had he continued to work until the end of the contract period;

12. if such contract is terminated after the last date by which the minimum notice may be given under section 24, upon payment to the other party of such sum as is required in sub-paragraph (d), together with a sum equal to the wages due to the employee in respect of the period between the last day of the current contract period and the end of the minimum period of notice required to be given under section 24;
13. in the case of a contract which may be terminated without notice, upon the payment of a sum equal to all wages which would have been due to the employee had he continued to work until the end of the contract period.

(3) Where any agreement is made between the parties to a contract providing for a period of notice greater than the minimum period specified in subsection (1) of section 24, the provisions of subsection (2) shall be construed as if the minimum period of notice provided for in such agreement were substituted for the minimum period of notice specified in subsection (1) of section 24.

(4) Nothing in section 22 or 23 or in subsection (2) shall preclude either party from summarily terminating any oral contract for lawful cause.

(5) The termination of any contract under the provisions of section 22 or 23 or of subsection (2), shall be without prejudice to any accrued rights or liabilities of either party under the contract.

#### *Task, piece work or journey*

**26.—**(1) A contract of service may be made under which a task or piece work is to be executed or a journey is to be performed for an agreed remuneration, and shall terminate upon the execution of the task or piece work or the completion of the journey, as the case may be.

(2) When a task has not been completed the employee shall, at the option of his employer, be entitled to be paid by his employer at the end of the day in proportion to the amount of the task which has been performed or to complete the task on the following day, in which case he shall be entitled to be paid on completion of the task.

(3) In the case of piece work, the employee shall be entitled to be paid wages by his employer at the end of each calendar month in proportion to the amount of work which he has performed during such month, or on completion of the work, whichever date is the earlier.

#### *Wages, when due*

**27.** The times when wages shall be deemed to be due and payable from an employer to an employee shall be—

14. in the case of an employee employed on a task, as provided for in section 26;
15. in the case of an employee employed on piece work, as provided for in section 26;

16. in the case of an employee employed to perform a journey, on completion of the journey;
17. in the case of an employee employed under a daily contract where, by agreement or custom, wages are not paid daily but are paid at intervals not exceeding one month, in accordance with such agreement or custom:
18. Provided that where any such contract is terminated and no new contract is entered into or presumed or deemed to have been entered into prior to the time at which wages are due and payable at the time when such contract is terminated;
19. in the case of an employee employed under any oral contract not falling within any of the preceding paragraphs, at the end of the contract period as determined under the provisions of section 22.

#### *Summary dismissal*

**28.** An employer shall not dismiss an employee summarily except in the following circumstances:—

20. where an employee is guilty of misconduct inconsistent with the fulfilment of the express or implied conditions of his contract of service;
21. for wilful disobedience to lawful orders given by the employer;
22. for lack of the skill which the employee expressly or by implication warrants himself to possess;
23. for habitual or substantial neglect of his duties;
24. for continual absence from work without the permission of the employer and without other reasonable excuse.

#### *Right to wages on dismissal for lawful cause*

**29.** Where an employee is summarily dismissed for lawful cause, he shall be paid on dismissal the wages due to him up to the time of his dismissal.

#### *Quantum meruit*

**30.** Subject to the provisions of this Act and to the terms, express or implied, of the contract of service, upon the termination of any oral contract the employee shall be paid wages upon a quantum meruit in respect of the performance by him in whole or in part of the contract.

### PART VI—WRITTEN CONTRACTS

#### *Application and interpretation*

**31.**—(1) The provisions of this Part shall apply to written contracts, not including contracts of apprenticeship entered into under the provisions of the Fiji National Training Act or any other law amending or replacing the same.

*(Amended by 37 of 1966, s. 99, and 31 of 1975, s. 7.) (Cap. 93.)*

(2) In this Part, unless the context otherwise requires—

- 25. "Convention" means the Contracts of Employment (Indigenous Workers) Convention, 1939, and the Contracts of Employment (Indigenous Workers) Convention, 1947;
- 26. "contract" means a written contract.

*Certain contracts to be in writing*

**32.**—(1) When a contract of service of an employee—

- 27. is made for a period of or exceeding six months or a number of working days equivalent to six months; or
- 28. stipulates conditions of employment which differ materially from those customary in the district of employment for similar work; or
- 29. is a foreign contract of service,

the contract shall be made in writing.

(2) The employee shall indicate his consent to the contract either by signing the same or by affixing thereto the impression of his thumb or finger.

(3) If a contract of service which is required by subsection (1) to be made in writing has not been made in writing, it shall not be enforceable except during the period of one month from the making thereof.

(4) The employer shall be responsible for the performance of any contract made by any person acting on his behalf,

*Family not bound by contract*

**33.** No contract shall be deemed to be binding on the family of an employee unless it contains an express provision to that effect.

*Form and contents of contract*

**34.** Every contract shall be in such form and shall contain all such particulars necessary to define the rights and obligations of the parties as may be prescribed.

*Attestation of contracts*

**35.**—(1) Every contract shall be presented for attestation to a district officer, labour officer or other officer authorised for the purpose by the

Permanent Secretary (in this Part referred to as the "attesting officer").

(2) Before attesting any contract the attesting officer shall—

30. ascertain that the employee has freely consented to the contract, and that his consent has not been obtained by coercion or undue influence, or as the result of misrepresentation or mistake; and
31. satisfy himself that—

(i) the contract is in due legal form;

5. the terms of the contract are in accordance with the requirements of this Act;
6. the employee has fully understood the terms of the contract before signing it or otherwise indicating his assent;
7. the provisions relating to medical examination which are contained in this Part have been complied with; and

(v) the employee declares himself not bound by any previous engagement.

(3) An attesting officer may refuse to attest any contract in respect of which he is not satisfied in regard to any of the matters specified in subsection (2), and any contract which an attesting officer has refused to attest shall have no further validity.

(4) A contract which has not been attested shall not be enforceable except during the period of one month from the making thereof, but each of the parties shall be entitled to have it presented for attestation at any time prior to the expiry of the period for which it was made.

(5) In addition to the original of every contract attested under this Act, three copies shall also be made. One copy shall be delivered to the employer, one to the employee, or in the case of a batch of employees to one of their number, and one to the Permanent Secretary. The original of every attested contract shall be deposited with and preserved by the attesting officer.

#### *Medical examination*

**36.—**(1) Every employee who enters into a contract shall be examined by a medical officer.

(2) Whenever it is practicable, the employee shall be medically examined and a certificate issued before the attestation of the contract.

(3) Where it has not been possible for the employee to be medically examined before the attestation of the contract, the attesting officer shall endorse the contract to that effect and the employee shall be examined at the earliest possible opportunity.

(4) Any employee who has been rejected after such examination as is hereinbefore mentioned as physically unfit for the work contemplated by the proposed contract, shall be returned to the place of engagement at the expense of the employer should the employee wish to return.

(5) If any employer shall not within a reasonable time return any employee to the place of engagement as required by subsection (4), the proper authority may return such employee to the place of engagement and any expenses incurred thereby shall be recoverable as a civil debt at the suit of the Permanent Secretary from the employer.

(6) There shall be paid to a medical officer by the employer in respect of each

employee examined by him under the provisions of this section such fee as may be prescribed.

(7) The Permanent Secretary may exempt from the requirement of medical examination employees entering into contracts for—

8. employment in any agricultural undertaking not employing more than twenty-five employees; or
9. employment in the vicinity of the employee's home on work which is not of a dangerous character or likely to be injurious to the health of the employees.

#### *Contracts by children and young persons*

**37.**—(1) A child shall not be capable of entering into a contract.

(2) A young person shall not be capable of entering into a contract except for employment in an occupation approved by a district officer or labour officer as not being injurious to the moral or physical development of non-adults.

(3) The provisions of this section shall apply notwithstanding anything contained in Part VIII.

#### *Period of service*

**38.** The maximum period of service that may be stipulated in any contract for the employment of an employee shall be one year if the employee is not accompanied by his family:

Provided that this period may be extended to two years if the employee is accompanied by his family.

#### *Transfer to other employer*

**39.**—(1) The transfer of any contract from one employer to another shall be subject to the consent of the employee and the endorsement of the transfer upon the contract by an attesting officer. Any such transfer as aforesaid without such endorsement thereon shall be null and void.

(2) Before endorsing the transfer upon the contract such officer shall ascertain that the employee has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake.

#### *Termination of contract by expiry of the term of service or by death*

**40.**—(1) Subject to the provisions of section 41, a contract shall be terminated—

10. by the expiry of the term for which it was made; or
11. by the death of the employee before the expiry of the term for which it was made.

(2) The termination of a contract by the death of the employee shall be without prejudice to the legal claims of his heirs or personal representatives.

*Termination of contract in other circumstances*

**41.**—(1) If the employer is unable to fulfil the contract, or if owing to sickness or accident the employee is unable to fulfil the contract, the contract may be determined with the consent of a district officer or labour officer, subject to conditions safeguarding the right of the employee to any wages earned, and, compensation due to him in respect of accident or disease and his right to repatriation.

(2) A contract may be determined by agreement between the parties with the consent of a district officer or labour officer, subject to conditions safeguarding the employee from the loss of his right to repatriation, unless the agreement for the termination of the contract otherwise provides and such officer shall satisfy himself—

12. that the employee has freely consented to the agreement and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and
13. that all monetary liabilities between the parties have been settled.

(3) A contract may be determined on the application of either party to a court.

*Repatriation*

**42.**—(1) Every employee who is a party to a contract and who has been brought to the place of employment by the employer or by any person acting on behalf of the employer shall have the right to be repatriated at the expense of the employer to his place of engagement in the following cases:—

14. on the expiry of the period of service stipulated in the contract;
15. on the termination of the contract by reason of the inability of the employer to fulfil the contract;
16. on the termination of the contract by reason of the inability of the employee to fulfil the contract owing to sickness or accident;
17. on the termination of the contract by agreement between the parties, unless the agreement otherwise provides;
18. on the termination of the contract by order of a court in pursuance of its powers under Part XI on the application of either of the parties, unless the court otherwise decides.

(2) Where the family of the employee has been brought to the place of employment by the employer or by any person acting on behalf of the employer, the family shall be repatriated at the expense of the employer whenever the employee is repatriated or in the event of his death.

(3) The expenses of repatriation shall include—

19. travelling and subsistence expenses or rations during the journey; and
20. subsistence expenses or rations during the period, if any, between the date of termination of the contract and the date of repatriation.

(4) The employer shall not be liable for subsistence expenses or rations in respect of any period during which the repatriation of the employee has been delayed—

21. by the employee's own choice; or
22. for reasons of force majeure, unless the employer has been able during the said period to use the services of the employee at the rate of wages stipulated in the contract.

(5) If the employer fails to fulfil his obligations in respect of repatriation, the said obligations shall be discharged by or under the directions of the proper authority, and any sums so expended may be recovered from the employer at the suit of the Permanent Secretary.

(6) Any employer who fails without reasonable excuse to comply with any of the provisions of this section relating to the repatriation or payment of expenses of repatriation of any employee or the family of any employee shall commit an offence against this Act,

#### *Exemption from obligation to repatriate*

**43.** The proper authority may exempt the employer from liability for repatriation expenses in the following cases:—

(a) when such authority is satisfied—

(i) that the employee, by a declaration in writing or otherwise, has signified that he does not wish to exercise his right to repatriation; and

5. that the employee has been settled at his request or with his consent at or near the place of employment;
2. when such authority is satisfied that the employee, by his own choice, has failed to exercise his right to repatriation before the expiry of six months from the date of termination of the contract;
3. when the contract has been terminated by order of a court in consequence of a fault of the employee;
4. when the contract has been terminated otherwise than by reason of the inability of the employee to fulfil the contract owing to sickness or accident and such authority is satisfied—

(i) that in fixing the rate of wages, proper allowance has been made for the payment of repatriation expenses by the employee; and

1. that suitable arrangements have been made to ensure that the employee has the funds necessary for the payment of such expenses.

#### *Employer to provide transport on repatriation*

**44.—**(1) The employer shall whenever possible provide transport for employees who are being repatriated.

(2) The proper authority shall taken all necessary measures to ensure and may give such directions to the employer or any person acting on behalf of the employer as will ensure—

1. that the vehicles or vessels used for transport of employees are suitable for such transport, are in good sanitary condition and are not overcrowded;
2. that when it is necessary to break the journey for the night, suitable accommodation is provided for the employees.

(3) Any person who fails without reasonable excuse to comply with the provisions of this section or with any directions of the proper authority lawfully given under the provisions of this section shall commit an offence against this Act.

#### *Period of service on re-engagement*

**45.—**(1) The maximum period of service that may be stipulated in any re- engagement contract made on the expiry of a contract shall be twelve months:

Provided that in a re-engagement contract with an employee who is accompanied by his wife and children the maximum period shall be two years.

(2) Where the period of service to be stipulated in any re-engagement contract, together with the period already served under the expired contract, involves the separation of any employee from his family for more than twelve months, the employee shall not begin the service stipulated in the re-engagement contract until he has had the opportunity to return home at the employer's expense.

(3) Except as provided in subsections (1) and (2) all the provisions of the preceding sections of this Part shall apply to re-engagement contracts:

Provided that the proper authority may at his discretion exempt any employee from the provisions of section 36 relating to medical examination.

#### *Summary of this Part to be brought to notice of employees*

**46.—**(1) The Permanent Secretary shall, where necessary, cause concise summaries of this Part to be printed in English and in a language known to the employees and shall make such summaries available to the employers and employees concerned.

(2) Where necessary the employer may be directed by the Permanent Secretary to post such summaries in a language known to the employees in conspicuous places.

#### *Foreign contracts of service and contracts made abroad*

**47.—**(1) When a contract made within Fiji relates to employment in another territory (in this section referred to as the "territory of employment") and is a "foreign contract of service" as defined in section 2, then the provisions of this Part shall apply in the following manner, that is to say:—

1. the attestation of the contract required by section 35 shall take place before an attesting officer before the employee leaves Fiji;
2. the provisions of subsection (5) of section 35 shall apply as if the copy of the contract required thereunder to be delivered to the Permanent Secretary were required to be sent to the Government of the territory of employment for transmission to the appropriate officers in that territory;
3. the medical examination required by section 36 shall take place at the latest at the time and place of the departure of the employee from Fiji;

4. a person whose apparent age is less than either sixteen years or the minimum age of capacity for entering into contracts prescribed by the law of the territory of employment, if such minimum age is higher than sixteen years, shall not be capable of entering into such a contract;
5. the period of service stipulated in the contract shall not exceed either two years in the case of an employee accompanied by his family, or, in other cases, one year, or the maximum period prescribed by the law of the territory of employment if such maximum period is less than two years, or one year, as the case may be;
6. the conditions under which the contract is subject to termination shall be determined by the law of the territory of employment;
7. the Permanent Secretary shall co-operate with the appropriate authority of the territory of employment to ensure the application of subsection (2) of section 44;
8. the period of service stipulated in any re-engagement contract shall not exceed the maximum period allowed by this Act, or the maximum period allowed by the law of the territory of employment, if the latter maximum period be less than the former.

(2) When a contact made within another territory (in this section referred to as "the territory of origin") relates to employment in Fiji, the provisions of this Act shall apply in the following manner:—

1. the endorsement of a transfer as required by section 39 shall be made by an attesting officer of Fiji;
2. the conditions under which the contract is subject to termination shall be determined by the provisions of this Act;
3. if the employer fails to fulfil his obligations in respect of repatriation, the said obligations shall be discharged by the Permanent Secretary, who may recover the amount so expended by civil suit;
4. the authority which may exempt the employer from liability for repatriation expenses shall be the Permanent Secretary;
5. the Permanent Secretary shall co-operate with the appropriate authority of the territory of origin to ensure the application of subsection (2) of section 44.

(3) When the Convention is not in force for the territory of employment the provisions set forth in subsection (1) shall apply:

Provided that the attesting officer of Fiji shall not attest the contract unless he is satisfied that the employee will be entitled in the territory of employment, either in virtue of the law of that territory or in virtue of the terms of the contract, to the rights and protection specified in sections 39 to 45.

#### *Security by employer*

**48.—**(1) When the employer in a foreign contract of service does not reside or carry on business within Fiji, the employer or his agent if so required by the district officer or labour officer attesting the contract shall give security by bond in the form prescribed or to the like effect with one or more sureties to be approved of by the said district officer or labour officer conditional for the due performance of the contract, in such sums as the district officer or labour officer, subject to the provisions of subsection (2), may consider reasonable.

(2) A bond entered into for the purpose of this section shall be enforceable by any district officer or labour officer according to its purpose without any assignment and shall be binding as a deed without being sealed.

(3) Any money recovered under the bond shall be applied by such district officer or labour officer in or towards satisfaction of the claims of the employees employed under the contract, in such proportions as the district officer or labour officer in his absolute discretion shall think just. Any balance remaining after satisfaction of such claims shall be returned to the employer.

*Penalty for inducing persons to proceed abroad under informal contract*

**49. Whoever—**

1. induces or attempts to induce any person to proceed beyond Fiji with a view to being employed or continuing his employment outside Fiji without a foreign contract of service and otherwise than in accordance with the provisions of this Part; or
2. knowingly aids in the engagement or transfer of any such person so induced by forwarding or conveying him or by advancing money or by any other means whatsoever,

shall commit an offence against this Act and be liable upon conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

**PART VII—PROTECTION OF WAGES**

*Payment of wages*

**50.—(1)** An employer shall be liable to a fine not exceeding two hundred dollars or to a period of imprisonment not exceeding six months or to both such fine and imprisonment if he is guilty of any of the following acts or omissions:—

1. if on demand being made by the employee, the Permanent Secretary, any labour officer or any labour inspector, he fails within seven days of such demand to pay any wages due to an employee:

Provided that—

(i) where a contract provides for the payment of wages at the end of the contract period; and

1. where a contract is being terminated in accordance with sections 22, 24 or 28, all wages due to an employee shall be paid on demand within twenty-four hours of the termination of the contract or expiry of the period of notice as the case may be;

• if he pays any wages, or causes any payment of wages to be made, to an employee on any premises licensed for the sale of liquor, save and except such wages as are paid by or on behalf of a licensee to his employees;

(c) if he pays or agrees to pay the wages of an employee otherwise than in currency which is legal tender at the place where the wages are paid:

Provided that—

(i) where the employer and the employee agree in writing to that effect, the wages of an employee may be paid by means of a cheque made payable to the bearer on demand and which is drawn on a bank in Fiji, and

1. where the employer and the employee agree in writing to that effect, the whole or any part of the wages due to the employee may be paid into a bank account or credit union account standing in the name of such employee or jointly with one or more person;

- if he makes or agrees to make any deduction from the wages of an employee in the nature of a fine, or on account of bad or negligent work;

- if he imposes any conditions upon the expenditure of his wages by the employee;

(f) if he sells provisions to his employees or establishes a shop for the sale of articles to his employees except with the written permission of the Permanent Secretary and in accordance with such conditions as he may require:

- Provided that the provisions of this paragraph shall not apply to any employees employed about or in any shop;

- if except where otherwise expressly permitted by the provisions of this Act or any other law, he makes any deduction or makes any agreement or contract with any employee for any deduction from the wages to be paid by the employer to the employee, or for any payment to the employer by the employee.

*(Subsection amended by 2 of 1968, s. 7, and 31 of 1975, s. 9)*

(2) Subject to the provisions of subsection (3), every employer shall, when paying an employee, provide such employee with a written statement containing the particulars set out in this subsection in respect of the relevant wage period and every employer failing so to do shall be guilty of an offence:—

1. the employee's name and Fiji National Provident Fund membership number;
2. the nature of employment or job classification;
3. the days or hours worked at normal rates of pay;
4. the rate of wages;
5. the type of wage period;
6. the amount of overtime worked during any wage period and the rate of wages payable for such overtime; and
7. (i) the total earnings of the employee;  
(ii) any allowances or other sundry payments due to the employee;  
(iii) any deductions made from the total earnings of the employee;  
(iv) the total amount due to the employee after all deductions have been made in respect of each wage period.

Provided that the provisions of this subsection shall not apply to the employer of any domestic servant within the meaning of this Act.

*(Subsection substituted by 26 of 1970, s. 4 and amended by 31 of 1975, s. 9 and 21 of 1976, s. 2)*

(3) Where an employee is engaged under a contract of service the terms of which provide that the employees wages shall be on the basis of an annual amount payable in not less than twelve nor more than twenty-six equal instalments, the employer shall be required to provide such employee with the statement prescribed under subsection (2) only on the following occasions:—

1. on the conclusion of the first full wage period after the commencement of service with the employer;
2. in the event of there occurring any change in the particulars set out in subsection (2) in respect of an employee; and
3. on termination of the contract of service.

*(Inserted by 31 of 1975, s. 9)*

(4) Nothing in this Act shall prevent any employer from paying to any member of an employee's family duly authorised by such employee in writing, any amount of wages due to him in respect of a current contract of service;

Provided that—

4. such wages shall be paid only after deductions expressly permitted by this Act or any other law have been made;
5. where any employer has reason to doubt the authenticity of the written authority referred to in this subsection, he shall immediately refer the matter to a district officer, labour officer or labour inspector for investigation and pending the result of such investigation the wages shall be withheld;
6. where in pursuance of paragraph (b) an employer has failed to refer the matter to a district officer, labour officer or a labour inspector and pays wages due to an employee to any person not entitled to receive them, such employer shall be liable to make good to the employee any wages so paid by error or mistake.

(5) Nothing in subsection (1) shall make it unlawful for an employer to enter into an agreement with an employee for the deduction from his wages of an agreed amount for specified periods of absence.

(6) The provisions of section 219 of the Criminal Procedure Code shall not apply to any proceedings instituted under subsection (1):

*(Cap. 21.)*

Provided that no such proceedings shall be instituted after the expiration of three years from the date on which the act or omission constituting the offence occurred. *(Inserted by 2 of 1968, s. 7)*

*Authorised deductions from wages*

**51.—**(1) Notwithstanding any other provision of this Act—

7. an employer may—

(i) deduct from the wages of an employee any amount due by such employee in respect of any tax or rate imposed by law; or

(ii) with the written consent of the employee, deduct any amount due by such employee as a contribution to any provident fund, school fund, pension fund, sports fund, superannuation scheme, life insurance scheme, trade union or co-operative society of which the employee is a member and shall on behalf of such employee pay the amount so deducted to the person empowered to collect such tax or rate or entrusted with the management of such fund, scheme, trade union or co-operative society;

2. an employer may make deductions from the wages of an employee—

(i) in respect of loss of or damage to any tools or other property of an employer caused by the neglect or default of such employee:

Provided that such deductions shall be made up to such maximum amounts, and in accordance with such terms and conditions as may be prescribed;

1. to the extent of any over-payment made during the immediately preceding three months by the employer to the employee by the employer's mistake;
2. an employer may make deductions at the request in writing of an employee—

(i) in respect of articles or provisions purchased on credit by him from the employer:

1. Provided that in no circumstances shall the price which the employer charges an employee for such articles or provisions exceed the lowest price at which he would sell such articles or provisions retail to a member of the public;
2. in respect of charges for the cost of accommodation, fuel or light supplied by the employer and used by an employee;
3. Provided that the total deduction in respect of such accommodation, fuel and light shall not exceed fifteen per cent of such employee's wages in respect of any one wage period;
4. in respect of food or victuals cooked, prepared and eaten on the employer's premises.

(2) Notwithstanding any other provision of this Act to the contrary, where—

1. an employer makes a loan to an employee;
2. the total amount of the loan has been paid by the employer to the employee in cash or by cheque; and
3. a memorandum of the transaction has been made and signed by or on behalf of both employer and employee providing for the repayment of the loan by one or more instalments,

the employer may deduct from the wages due to the employee such instalments at such times as are set out in the memorandum.

(3) The amount of any deductions made under the provisions of subsection (2) together with the amount of any other deductions permitted by this Act shall not amount in any wage period to more than fifty per cent of the employee's wages due to such employee in respect of such wage period.

*(Inserted by 31 of 1975, s. 10)*

### *Remuneration other than wages*

**52.** Nothing in this Act shall render illegal any agreement or contract with an employee for giving to him food, a dwelling place, or other allowances or privileges, in addition to money wages, as remuneration for his services:

Provided that no employer shall give to an employee any intoxicating liquor by way of such remuneration.

### *Interest on advances*

**53.—**(1) No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of wages made to any employee in anticipation of the regular period of payment of such wages.

(2) Any employer who contravenes any of the provisions of subsection (1) shall commit an offence against this Act.

### *Priority of wages*

**54.** Notwithstanding the provisions of any law for the time being in force in Fiji, whenever any attachment has been issued against the property of an employer, the proceeds realized in pursuance of such attachment shall not be paid by any court to any person until any order obtained against such employer in respect of an employee's wages has been satisfied to the extent of a sum not exceeding four month's wages of such employee, and the court has paid to the Permanent Secretary such sum or sums (if any) as the employer should have paid under the provisions of sections 36 and 42:

Provided that nothing in this section shall be deemed to prevent an employee from recovering any balance due on such order after such satisfaction as aforesaid, by ordinary process of law.

### *Exemption of employer on conviction of actual offender*

**55.—**(1) Where an employer is charged with an offence under any of the provisions of this Part, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he has used due diligence to enforce the provisions of this Part and that such other person has committed the offence in question without his knowledge, consent or connivance, such other person shall be convicted of such offence and the employer shall be exempt from any penalty.

(2) Where it is made to appear to the satisfaction of a labour officer or labour inspector at the time of discovering the offence that the employer has used due diligence to enforce the provisions of this Part, and also by what person such offence has been committed, then the labour officer or labour inspector shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

### *Power of court to order payment to employee*

**56.**—(1) Where any employer or other person has been found guilty of any offence under the provisions of this Part, a court may order such employer or person to pay such sum as is found by that court to be due to such employee by way of remuneration or otherwise and to be such as would have been paid to him if the provisions of this Part had been complied with.

(2) The power given by this section for the recovery of sums due from an employer to an employee shall be in addition to and not in derogation from any right of an employee to recover such sums by any other proceedings under this Act or other law:

Provided that no person shall be liable to pay twice in respect of the same cause of action.

## PART VIII—WOMEN, YOUNG PERSONS AND CHILDREN

### *Application*

**57.** Save as is otherwise provided in this Act or any other law, the provisions of this Part shall be in addition to and not in derogation from any other provisions of this Act or of any other law for the time being in force regulating the relations between employer and employee

Provided that no provision of this Part shall apply to an industrial or other undertaking, or to any ship, in which only members of the same family are employed, unless such employment, by its nature and the circumstances in which it is carried on, is dangerous to the life, health or morals of the persons employed therein, or to any school, institution or training ship which is for the time being approved and supervised by the Permanent Secretary for Education or some person appointed by him in pursuance of any Act for the time being in force relating to education, (*Amended by 37 of 1966, s. 100.*)

### *Power to exempt certain occupations from the provisions of this Part*

**58.** If, having regard to the nature of the work involved in any occupation which forms part of an industrial undertaking, the Minister considers that such occupation should be excluded from the provisions of this Part relating to industrial undertakings he may declare, by order, that employment in such occupation shall be deemed not to be employment in an industrial undertaking for the purposes of this Part.

### *Employment of children under twelve years of age*

**59.**—(1) No child under the age of twelve years shall be employed in any capacity whatsoever:

Provided that the provisions of this section shall not apply to any such child employed in light work suitable to his capacity in an agricultural undertaking which is owned and operated by the family of which he is a member,

(2) Any person who employs any child under the age of twelve years in contravention of the provisions of subsection (1) shall commit an offence against this Act.

### *Employment of children*

**60.**—(1) A child shall be employed only—

1. upon a daily wage and on a day to day basis; and
2. upon the terms that he returns each night to the place of residence of his parent or guardian,

(2) Any person who employs a child in contravention of any of the provisions of subsection (1) shall commit an offence against this Act.

*Restriction on employment of children and young persons*

**61.**—(1) No child or young person shall be employed in any employment which in the opinion of the proper authority is injurious to health, dangerous, or is otherwise unsuitable.

(2) No person shall, after being notified in writing by the proper authority that the kind of work upon which a child or young person is employed is injurious to his health, dangerous, or otherwise unsuitable, continue so to employ him. Such notification may be made generally or in any particular case.

(3) Where any employment is discontinued under the provisions of subsection (2), such discontinuance shall be without prejudice to the right of the child or young person to be paid such wages as he may have earned up to the date of such discontinuance under the terms of the contract of service.

(4) Any person who employs any child or young person in any employment which is injurious to health, dangerous, or is otherwise unsuitable, or who continues to employ any young person in any work concerning which he has been notified by the proper authority that it is injurious to health, dangerous, or otherwise unsuitable, shall commit an offence against this Act.

*Children and young persons not to be employed against the wishes of parent or guardian*

**62.**—(1) No employer shall continue to employ any child or young person after receiving notice, either orally or in writing, from the parent, guardian or proper authority, that the child or young person is employed against the wishes of such parent or guardian.

(2) Any employer who continues to employ any child or young person after receiving such notice shall commit an offence against this Act.

*Restriction on employment of children in industrial undertaking*

**63.**—(1) No child shall be employed in any industrial undertaking.

(2) No child shall be employed in any undertaking in attendance on machinery.

(3) Any person who employs a child in contravention of the provisions of this section shall commit an offence against this Act.

*(Section amended by 2, 1968, s. 8)*

*Hours of work for children and young persons*

**64.**—(1) A child shall not be employed or permitted to be employed for more than six hours in a day nor for more than two hours without a period of leisure of not less than thirty minutes, and if such child is attending school the total time spent in employment and at school shall not exceed seven hours in a day.

(2) No young person shall be employed or permitted to be employed for more than five hours without a period of leisure of not less than thirty minutes or for more than eight hours in a day, and if the young person is attending school the total time spent by him in employment and at school shall not exceed nine hours a day.

(3) The provisions of this section shall not apply to any young person employed under a

deed of apprenticeship lawfully entered into under the provisions of any law for the time being in force.

(4) Any person who employs a child or young person in contravention of the provisions of this section shall commit an offence against this Act.

*Restriction on employment of women and young persons on night work*

**65.**—(1) Subject to the provisions of section 66, no woman or young person shall be employed at night between the hours of 8 p.m. and 6 a.m. in any industrial undertaking except—

1. male young persons over the age of sixteen years employed in one of the following industrial undertakings on work which by reason of the nature thereof is required to be carried on continuously day and night, namely—

(i) manufacture of iron and steel, processes in which reverberatory or regenerative furnaces are used and galvanizing of sheet metal or wire (except for the pickling process);

(ii) glass works;

(iii) manufacture of paper;

(iv) manufacture of raw sugar; or

(v) mining, reduction, extraction or preparation of minerals;

1. women, or male young persons over the age of sixteen years employed in cases of emergency which could not have been controlled or A foreseen, which interfere with the normal working of the industrial undertaking and which are not of a periodical nature;
2. women, in cases where the work is connected with raw materials or materials in the course of treatment and which are subject to rapid deterioration, and work during such hours as is necessary to preserve any such materials from certain loss;
3. women holding responsible positions and not engaged in manual work.

*(Amended by 2 of 1968, s. 9 and 31 of 1975, s. II)*

(2) Any person who employs a woman or young person in contravention of any of the provisions of subsection (1) shall commit an offence against this Act.

*Emergencies*

**66.** In the case of any serious emergency, when the public interest demands it, the Permanent Secretary may after consultation with the employers' and workers' organisations concerned, by notice in the Gazette, suspend the operation of section 65 in so far as it affects women and male young persons over the age of sixteen years.

*(Amended by 2 of 1968, s. 10)*

*Restriction on employment of young persons in mines*

**67.**—(1) No young person shall be employed underground in any mine unless a certificate that he is fit for such work has been given, signed by a medical officer.

(2) Any person who employs a young person in contravention of the provisions of subsection (1), shall commit an offence against this Act.

*Restriction on employment of children*

**68.** No child shall be employed on any ship except on a ship approved by the Permanent Secretary for Education as a school or training ship:

Provided that—

1. the Permanent Secretary for Labour may, subject to such conditions as he may think fit to impose, give written approval to the employment of a child over the age of fourteen years in any other ship, if he is satisfied, having regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed that such employment will be beneficial to the child;
2. the provisions of this section shall not apply in the case of a child over the age of twelve years who is employed in a ship operated by members of the child's family if the child is under the care of a relative who is a member of the crew of such ship, and is in the opinion of the Permanent Secretary for Labour, a fit and proper person to have charge of such child.

*Trimmers and stokers*

**69.**—(1) No child or young person shall be employed or work as a trimmer or stoker on any ship:

Provided that a young person may with the approval of the Permanent Secretary be employed on such work on a ship approved by the Permanent Secretary for Education as a school or on a training ship, if such work is supervised by such authority as may be approved by the Permanent Secretary for Labour.

(2) Any person who employs any child or young person in contravention of the provisions of subsection (1) shall commit an offence and shall be liable upon conviction to a fine not exceeding one hundred dollars and in the case of a second or subsequent offence to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) The provisions of this section shall be in addition to and not in derogation from the provisions of section 68.

*Medical certificate*

**70.**—(1) No child or young person shall be employed in any ship unless he is in possession of a certificate signed by a medical officer to the effect that he is fit for such employment.

(2) Every certificate issued under the provisions of this section shall be valid for one year from the date of issue, unless revoked under the provisions of subsection (3):  
Provided that if such certificate expires during a voyage it shall be deemed to be valid until the end of the voyage.

(3) Any such certificate may at any time be revoked by a medical officer if he is satisfied that the child or young person is no longer fit for the employment.

(4) Any person who employs any child or young person in contravention of the provisions of subsection (1) shall commit an offence against this Act.

#### *Employers of children and young persons to keep registers*

71.—(1) Every employer of young persons in an industrial undertaking, or of children employed in an occupation which forms part of an industrial undertaking, and which has been deemed under the provisions of any order made under section 58 not to be employed in an industrial undertaking for the purposes of this Part, shall keep a register of all such children and young persons in his employment and shall include in such register particulars of their ages or apparent ages, the date of commencement and termination of their employment, the conditions and nature of their employment and such other particulars as may be prescribed, and shall produce the register for inspection when required by the proper authority.

(2) Such register shall be maintained separately and apart from any other register.

(3) Any employer who fails to keep a register as required by the provisions of subsection (1) or who fails or refuses to produce such a register when required to do so shall commit an offence against this Act, and shall be liable upon conviction to a fine not exceeding one hundred dollars.

#### *Restriction on employment of women in mines*

72.—(1) No female shall be employed on underground work in any mine except in the following circumstances:—

1. a woman holding a position of management who does not perform manual work;
2. a woman engaged in health or welfare services;
3. a woman who in the course of her studies spends a period of training in the underground parts of a mine; or
4. a woman who may for any other reason occasionally have to enter the underground parts of a mine for the purposes of non-manual A occupation.

(2) Any person who employs a female in contravention of the provisions of subsection (1) shall commit an offence against this Act.

#### *Offences by parents and guardians*

73. Any parent or guardian of a child or young person who permits such child or young person to be employed in contravention of any of the provisions of this Part shall commit an offence against this Act.

### PART IX—MATERNITY PROTECTION

#### *Right to abstain from work before and after confinement and allowances payable therefor*

74.—(1) Where a female employed in any undertaking expects to be confined, she shall, subject to furnishing her employer with a certificate from a registered medical practitioner or registered nurse specifying the possible date of confinement, be entitled to abstain from work for a period of forty-two consecutive days (hereinafter referred to as the pre-confinement

allowance period) before, and for a further period of forty-two consecutive days (hereinafter referred to as the post-confinement allowance period) immediately after her confinement and shall, subject to the provisions of this Act, be entitled to an allowance (hereinafter referred to as a maternity allowance) in respect of such abstention from work:

Provided that the post-confinement allowance period shall include the actual day of confinement.

(2) Every such female, who at any time during the four months immediately preceding her confinement was employed by an employer by whom she had been employed for a period of, or periods amounting in the aggregate to, not less than one hundred and fifty days during the nine months preceding her confinement shall be entitled, in respect of the pre-confinement allowance period and the post-confinement allowance period, to receive from such employer a maternity allowance of one dollar fifty cents per day payable at such intervals as relates to the intervals at which the wages of the female were normally paid by the employer:

*(Amended by 31 of 1975, s. 12)*

Provided that where a female claims the maternity allowance under this section from more than one employer, she shall not be entitled to receive an amount exceeding in the aggregate the amount which she would be entitled to receive if her claim was made against one employer only.

(3) Where there is more than one employer from whom the female would be entitled to claim maternity allowance in accordance with the provisions of subsection (2), the employer who pays the maternity allowance shall be entitled to recover from such other employer or employers, as a civil debt, a contribution which shall bear the same proportion to the amount of the maternity allowance paid to the female, as the number of days on which she worked for such other employer during the period of nine months immediately preceding her confinement bears to the total number of days on which she worked during the said period:

Provided that if such female has failed to comply with the provisions of subsections (1) and (2) of section 77, the employer who pays the maternity allowance shall not thereby be prevented from recovering a contribution calculated in accordance with the provisions of this subsection.

(4) Where a female abstains from work for a period of more than forty-two consecutive days immediately preceding her confinement she shall be entitled to receive the maternity allowance in respect of the pre-confinement allowance period and in respect of the post-confinement allowance period, but shall not be entitled to any maternity allowance in respect of the days during which she abstains from work in excess of the pre-confinement allowance period.

(5) Where a female works on any day during the pre-confinement allowance period, she shall not be entitled to the maternity allowance in respect of that day or in respect of any day preceding that day:

Provided that every female shall, whether she abstains from work before her confinement or not, be entitled to receive the maternity allowance in respect of the period of seven days immediately preceding her confinement.

(6) Where a female works on any day during the post-confinement allowance period, she shall not be entitled to the maternity allowance in respect of the day on which she so works or in respect of any day thereafter,

*Payment of maternity allowance*

75. Notwithstanding the provisions of section 74—

1. the maternity allowance in respect of the pre-confinement allowance period shall be paid by the employer within seven days from the date upon which he knows or has notice of the confinement;
2. the maternity allowance in respect of the post-confinement allowance period shall be paid by the employer within seven days from the expiration of the post-confinement allowance period.

*Payment of allowance on death of female*

76.—(1) If a female, after giving notice to her employer that she expects to be confined, abstains from work in expectation of her confinement and dies from any cause before her confinement, the employer or any employer who would have been, but for the death of the female, liable to pay the maternity allowance under this Part shall pay to the person nominated by her under section 78 or, if there is no such person, to her personal representative an allowance at the rate prescribed under subsection (2) of section 74 from the day immediately following the last day on which she worked to the day immediately preceding the day of her death:

Provided that in the circumstances mentioned in this subsection no employer shall be liable to pay such allowance in respect of a period exceeding forty-two days.

(2) If a female dies from any cause on or after the day of her confinement and before any maternity allowance to which she is entitled has been paid to her, the employer or any employer liable to pay a maternity allowance under the provisions of this Part, shall pay to the person nominated by her under section 78, or if there is no such person, to her personal representative, any maternity allowance to which she is on the day of her death entitled in respect of the pre-confinement allowance period and maternity allowance in respect of the post-confinement allowance period up to the day preceding the day of her death.

*Loss of maternity allowance for failure to notify employer*

77.—(1) A female who is about to leave her employment and who knows or has reason to believe that she will be confined within four months from the date upon which she leaves, shall before leaving her employment, notify her employer of her pregnancy and, if she fails to do so, she shall not be entitled to receive any maternity allowance under this Part from such employer.

(2) A female who abstains from work because she expects to be confined within forty-two days, shall within seven days from the date upon which she abstains from work notify her employer of her expected confinement and, if she fails to do so, she shall not be entitled to the maternity allowance in respect of the pre-confinement allowance period to the extent of seven days.

(3) A female who has been confined shall within fourteen days of her confinement notify her employer thereof and, if she fails to do so, she shall not be entitled to the maternity allowance in respect of the post-confinement allowance period.

(4) The want of or any defect or inaccuracy in any notice required to be given in accordance with the provisions of this section shall not be a bar to the maintenance of any claim to maternity allowance unless the employer is proved to have been prejudiced by the want, defect or inaccuracy of such notice.

(5) The failure to give any such notice within the period specified in this section shall not prejudice the right of a female to receive any maternity allowance if it is found that the failure was occasioned by mistake or other reasonable cause: Provided that any dispute as to whether such failure was occasioned by mistake or other reasonable cause shall be referred to the Permanent Secretary, whose decision in the matter shall be final.

(6) Notice to an employer, or if there is more than one employer, to one of such employers, may be given in writing or orally to such employer.

(7) Any such notice may be given by a labour officer or labour inspector on behalf of any female, and a notice so given shall have the same effect as if given by the female herself.

#### *Payment of allowance to nominee*

**78.** A female may nominate in writing some other person to whom the maternity allowance may be paid on her behalf, and any payment of the maternity allowance made to the person so nominated shall, for the purpose of this Act, be deemed to be a payment to the female who nominated such person.

#### *Restriction on dismissal of female during allowance period*

**79.—**(1) When a female who expects to be confined or who has been confined is absent from her work during the whole or any part of the pre-confinement allowance period and the post-confinement allowance period, or who remains absent from her work after the expiration of the post-confinement period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy and confinement and to render her unfit for work, it shall not be lawful, until her absence from her work has exceeded a total of three months for her employer to give her notice of dismissal at such time that the notice would expire during such absence:

Provided that the three months' absence specified in this subsection shall include the pre-confinement allowance period and the post-confinement allowance period referred to in section 74.

(2) When a female is dismissed from her employment with wages in lieu of notice at any time during the period of four months immediately preceding her confinement, she shall, in computing the period of her employment for the purposes of this Part, be deemed to have been employed as if she had been given due notice instead of wages in lieu thereof.

#### *Conditions contrary to this Part void*

**80.** Any condition in a contract of service whereby a female relinquishes any right under this Part shall be void and of no effect.

#### *Registers of allowances paid*

**81.—**(1) Every employer shall keep a register showing all payments made to females under the provisions of this Part and of such other matters incidental thereto as may be prescribed.

(2) In the case of an employer who maintains a written record in accordance with any regulations made under this Act, it shall be a sufficient compliance with the provisions of subsection (1) if such record contains in respect of every female affected by this Part, the particulars required to be kept under the said subsection.

## PART X—CARE AND WELFARE

### *Supply of water*

**82.—**(1) Where no public water supply is readily available to his employees, every employer shall, at his own expense, provide for such employees and members of their families living with them on the employer's property, an adequate and easily accessible supply of wholesome water for drinking, washing and other domestic purposes to the satisfaction of the proper authority and shall take all such measures as are necessary and practicable and as the proper authority may require to maintain such supply, and to protect it from pollution:

Provided that this subsection shall only apply in relation to those employees who are living on the employer's property with the consent of such employer. (2) Any employer who fails to comply with any of the provisions of subsection (1) or of any notice issued thereunder shall commit an offence against this Act.

### *Provision of medicine and medical treatment*

**83.—**(1) Every employer shall at his own expense provide for his employees and members of their families living with such employees, medical aid in accordance with such scale as may be prescribed:

Provided that in so far as the provision of such medical aid for the members of the employee's family is concerned this obligation shall only extend to cases where the employee and his family are resident on the employer's property with the knowledge and consent of the employer.

(2) Any employer who fails to comply with any of the provisions of subsection (1) shall commit an offence against this Act:

Provided that an employer shall not be liable under this section in any case where any illness or incapacity is occasioned by the neglect or fault of the employee or the members of his family or where the employee or the members of his family refuse or fail to make use of the medical aid provided by the employer.

### *Return of employees to place of engagement*

**84.—**(1) Whenever an employee shall have been brought to the place of employment by the employer or by any person acting on his behalf, the employer shall at the termination of the contract of service pay the expenses of repatriating the employee by reasonable means to the place from which he was brought, if the employee so desires:

Provided that an employer shall not incur liability under this section in respect of any employee who has not completed a period of service of at least three months' duration unless the proper authority shall so order.

(2) The proper authority may exempt the employer from his liability to pay the expenses of repatriation under subsection (1) if the contract of service has been terminated otherwise than by reason of the inability of the employee to fulfil the contract owing to sickness or accident and the proper authority is satisfied—

1. that in fixing the rate of wages proper allowance has been made for the payment of repatriation expenses by the employee; and
2. that suitable arrangements have been made by means of a system of deposited wages or otherwise to ensure that the employee has the funds necessary for the payment of such expenses.

(3) The expenses of repatriation shall include—

1. the cost of travelling and subsistence expenses or rations to the place of engagement; and
2. subsistence expenses during the period, if any, between the date of termination of the contract and the date of repatriation.

(4) Any employer who fails to comply with any of the provisions of subsection (1) or any order made by the proper authority thereunder shall commit an offence against this Act.

*Repatriation of body of deceased employee*

**85.**—(1) Wherever any employee shall have been brought to the place of employment by the employer or by any person acting on his behalf and such employee dies, from any cause whatsoever, before termination of the contract of service the employer shall pay the expenses of repatriating the body of the deceased employee by reasonable means to the place from which he was brought. (2) The proper authority may exempt the employer from his liability to pay the expenses of repatriation under subsection (1) if, having regard to all the circumstances, the proper authority is satisfied that repatriation at the expense of the employer would be either unreasonable or impracticable.

(3) Any employer who fails to comply with any of the provisions of subsection (1) shall commit an offence against this Act.

*(Section inserted by 31 of 1975, s. 13)*

PART XI—REMEDIES, JURISDICTION AND PROCEDURE OF COURTS

*Jurisdiction of magistrate*

**86.** Every magistrate shall have jurisdiction, notwithstanding anything to the contrary contained in any other Act respecting the jurisdiction of such magistrate, in all cases or matters arising between employers and their employees and with reference to their relative rights and duties or to any matter or thing or offence for which provision is made in this Act.

*Magistrate may summon parties*

**87.**—(1) Any person may complain to a magistrate on the prescribed form in relation to any matter arising out of any contract of service and on receipt of such complaint the magistrate may, in his discretion, and where the facts appear to him to be such as may found either a civil suit or a criminal charge, issue such process as he may think fit to cause the parties and the witnesses to attend before him.

(2) Upon the attendance of the party or parties, the magistrate shall ask any party aggrieved whether he wishes to bring a civil suit or make a criminal charge and in the event of his wishing to do so the magistrate shall thereupon draw up a writ or charge, as the case may be, and shall proceed to try the case as expeditiously as possible and where no suit or charge is brought or made, the magistrate shall dismiss the parties and may make such order, if any, as he may think just.

(3) Notwithstanding anything hereinbefore contained in this section, a magistrate may,

in any criminal case arising out of the provisions of this Act, if it shall appear to him that any matter could more properly or conveniently be dealt with in a civil suit, order, at any time before judgment is delivered by him, that the remedy (if any) for the matters complained of shall be by way of a civil suit and not by way of a criminal charge.

(4) A magistrate making an order under the provisions of subsection (3) may, if in his opinion the issues therein are satisfactorily defined, forthwith hear and determine such suit, without the filing of a writ or defence and give judgment therein, which judgment shall be of the same force and effect and shall be executed in the same manner as if it had been given in a duly instituted civil suit.

#### *Husband and wife competent witnesses*

**88.** In any trial for an offence against any of the provisions of this Act the employer or employee, as the case may be, and his or her wife or husband shall be competent to give evidence.

#### *Joinder in cases of non-payment of wages*

**89.—**(1) Notwithstanding anything to the contrary contained in any other law for the time being in force in Fiji, in any proceedings against an employer in respect of wages due to more than one of his employees, a magistrate may permit a writ or other necessary document in any action to be made or filed by a labour officer, labour inspector, or by one of such employees on behalf of all such employees, and the claims to be proved by such labour officer, labour inspector or by such employee accordingly:

Provided that the writ shall have annexed thereto a schedule setting forth the names of such employees, their addresses and descriptions and the details of wages due to each such employee.

(2) Costs given against the employees shall be paid by such employees or by any of them in such proportions as the court shall direct.

#### *Summary procedure*

**90.** In any proceeding for an offence against this Act punishable with imprisonment for a term not exceeding three months or a fine not exceeding one hundred dollars, the court may, in its discretion, whether requested by the prosecutor or not, deal with the case under the provisions of section 221 of the Criminal Procedure Code.  
(*Cap. 21.*)

#### *Proceedings on appeal*

**91.** Where in any civil proceedings under this Act either party desires to prosecute an appeal to the Supreme Court the Permanent Secretary may appear by barrister and solicitor before the Supreme Court.

#### *Power of subordinate courts*

**92.** In any civil proceedings under this Part in connexion with a contract of service, a court may, in addition to any jurisdiction it might have exercised if this Act had not been enacted, exercise all or any of the following powers, that is to say:—

1. the court may adjust and set off one against the other all such claims on the part either of the employer or of the employee arising out of or incidental to the relation between them as the court may find to be subsisting, whether such claims are liquidated or unliquidated, and are for wages, damages, compensation, or otherwise, and it may direct the payment of such sum as it finds due by one party to the other party;
2. the court may direct fulfilment of the contract and in any case where damages or compensation are, or might be, awarded for any breach of contract, negligence or unlawful act or omission, may, in place of the whole or part of the damages or compensation awarded, direct the party committing such breach to find security to the satisfaction of the court for the due performance of so much of the contract as remains unperformed, and if the party neglects or refuses to find security, the court may commit him to prison until he finds it, but such term of imprisonment shall not exceed three months;
3. the court may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages, damages, compensation or other sums due as the court thinks fit.

*Compensation for loss, etc., of employer's property*

**93.** Where any property of the employer is lost or damaged by means of any negligent or unlawful act or omission of his employee, it shall be lawful for the court, should it think fit, to fix the amount of compensation for such loss or damage, and make such order as to the payment thereof either at once or by instalments out of wages yet to be earned or otherwise, as shall seem reasonable and just:

Provided that no instalment ordered to be paid out of wages shall exceed one-third of the employee's monthly wages if the instalments are ordered to be paid monthly, or one-third of the employee's weekly wages if the instalments are ordered to be paid weekly.

*Payment of fine or sum to party or person*

**94.** When a court imposes any fine or enforces payment of any sum, the court may direct that such fine or sum when recovered, or such part thereof as it thinks fit, shall be applied to compensate any employer, employee or other person for any wrong done or damage sustained by him by reason of the act or thing in respect of which the fine or sum was imposed or recovered or by reason of the non-performance of the contract of service.

*Cancellation of contracts*

**95.** In any proceedings under this Act between an employer and an employee or against an employer or an employee in relation to any contract of service, the court may order the cancellation of a contract of service between the employer and the employee.

**PART XII—OFFENCES**

*Offences by employers*

**96.** An employer shall commit an offence against this Act if he shall be guilty of any of the following acts or omissions, that is to say, if before or after the termination of the contract

of service, upon demand made by the employee, the Permanent Secretary, any labour officer or labour inspector and without lawful cause, he refuses to deliver or permit to be taken away any property belonging to any employee lawfully remaining or being upon such employer's land or in the employer's possession, without reasonable and probable cause for believing that the property was lawfully detained. (*Amended by 31 of 1975, s. 14*)

#### *Offences by employees*

**97.** Any employee who owes money to the employer in respect of any wages or benefits in kind received in advance and leaves the service of his employer with intent not to return thereto under circumstances from which it appears that he intended to defraud his employer shall commit an offence against this Act.

#### *False pretences*

**98.** Any person who, with a view to obtaining employment under this Act, makes any statement orally or in writing which is false to his knowledge shall commit an offence against this Act.

#### *Penalty*

**99.** Any person who commits an offence against this Act for which no penalty is expressly provided shall be liable upon conviction to a fine not exceeding two hundred dollars, and in the case of a second or subsequent offence against the same provision of this Act to a fine not exceeding four hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment. (*Amended by 31 of 1975, s. 15*)

### PART XIII—GENERAL

#### *Saving as to contract of service made abroad*

**100.—(1)** Nothing in this Act shall prevent any employer or employee from enforcing his respective rights and remedies for any breach or non-performance of any lawful contract of service made outside Fiji, but the respective rights of such parties under such contract as well as against each other as against third parties invading such rights, may be enforced in the same manner as other contracts arising therefrom may be enforced as if this Act had not been enacted:

Provided that—

1. whenever any such contract has been executed in conformity with this Act it shall be enforced in the same manner as a contract entered into under this Act: and
2. no written contract the tenor and execution of which are not in conformity with Part VI shall be enforced as against an employee who is unable to read and understand writing.

(2) For the purposes of this section any such contract shall be deemed executed in conformity with Part VI which is signed by the names or marks of the contracting parties and bears an attestation to the like effect as is contained in the prescribed form of foreign contract of service by—

1. if the contract was made in Great Britain or elsewhere in Her Majesty's dominions or in a protectorate or protected territory or trust territory, any justice of the peace, or other officer authorised by law to take affidavits or to attest contracts of service;
2. if the contract was not made within Fiji, any judge or magistrate, or any British minister, consul, vice-consul or consular agent.

*Saving as to contracts under Acts relating to shipping*

**101.** This Act shall not apply to any contract governed by any Imperial law relating to shipping or affect the rights and remedies of the parties thereunder.

*Regulations*

**102.**—(1) The Minister, after considering the advice of the Labour Advisory Board, may make regulations for the better carrying out of the purposes and provisions of this Act, and, without prejudice to the generality of the foregoing, for any of the following purposes:—

1. providing for the particulars to be contained in written contracts of service, and for the manner of execution, attestation and registration thereof and for all other matters relating to their making, enforcement, transfer and cancellation;
2. prescribing the adequacy and cash value of food, housing, clothing and other essential supplies where they form part of the remuneration of employees in employment generally or in relation to any particular kind of work or employment;
3. prescribing the hours of work of women, young persons and children;
4. prohibiting or regulating the employment of persons suffering from any infectious disease or any other prescribed physical disability;
5. prescribing the books, records, accounts and other documents to be kept and the returns to be rendered by employers, and other persons in respect of employees;
6. prescribing the records and registers to be kept and the returns to be made by the employers of women, young persons and children;
7. providing for the application of any sums due to the estates of deceased employees;
8. prohibiting, restricting, controlling or regulating the employment of women, young persons and children in commercial undertakings;
9. prescribing for any period the maximum number of hours during which any employee or class of employees, either generally or in relation to any particular kind of work or employment, may be required to work;
10. providing for and prescribing the description and scale of medicines, medical attention, accommodation, equipment, staff and treatment to be provided by employers for employees;
11. regulating the engagement and the embarkation of employees to be employed under a foreign contract of service;
12. providing for the establishment and administration of free public employment exchanges;

13. providing for all matters relating to the return of employees from the lace of employment to the place of engagement;
14. providing for the giving of security by employers or other persons and all matters relating thereto;
15. further restricting the employment of women, children and young persons in specified occupations;
16. prescribing the maximum amounts of loans and instalments and the terms and conditions upon which loans may be made by employers to employees and upon which loans and instalments may be recovered;
17. for the establishment and administration of boards and committees to register casual labour and to regulate the employment of casual labour, to empower any such board or committee to charge such fees as the Minister may approve in connexion therewith and to provide that any such fees may be paid to such boards or committees;
18. making provision for persons employed in undertakings generally or in any particular undertaking to be entitled to holidays with pay;
19. prescribing forms to be used under this Act;
20. prescribing fees payable under this Act;
21. prescribing all matters which are authorised by this Act to be prescribed.

(2) Any regulation made under the provisions of subsection (1) may impose conditions, require acts or things to be performed or done to the satisfaction of the Permanent Secretary or a district officer, medical officer, labour officer or labour inspector and empower the Permanent Secretary or any such officer to issue orders either orally or in writing requiring acts or things from being performed or done or prohibiting acts or things to be performed or done, and prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled, and provide for appeal against any such order, notice or direction.

(3) In addition to making such provision as is prescribed in subsections (1) and (2), regulations made under this Act may fix such penalties for the breach, non-compliance with or non-fulfilment of any regulation or any condition imposed or order, notice or direction issued under any such regulation, not exceeding a fine of two hundred dollars and in the case of a second or subsequent offence against the same provision not exceeding a fine of two hundred dollars or imprisonment for a term not exceeding three months or both such fine and imprisonment.

#### *Application of regulations*

**103.** Any regulation made under this Act may apply to Fiji generally or may be limited in its application to any Division or area of Fiji, to any trade, undertaking or employment or to any person or class of persons as the Minister may from time to time order or in any such regulation determine.

*Controlled by Ministry for Labour, Industrial Relations and Immigration*

## **CHAPTER 92 EMPLOYMENT**

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SECTION I—EMPLOYMENT (APPLICATION) ORDER  
TABLE OF PROVISIONS

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PARAGRAPH

1. Short title
2. Excluded classes of employees
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4. Position of employee who is also employer
  - First Schedule—Classes of Exempted Employees
  - Second Schedule—Classes of Exempted Contracts and Transactions

---

*Legal Notice No. 3 of 1976*

*Short title*

1. This Order may be cited as the Employment (Application) Order\*.

*Excluded classes of employees*

2. The classes of employees specified in the First Schedule, and their employers in respect of such employees, shall be excluded from the operation of the Act.

*Excluded classes of contracts and transactions*

3. The classes of contracts and transactions specified in the Second Schedule shall be excluded from the operation of the Act.

*Position of employee who is also employer*

4. Nothing in this Order shall exempt any person employed for wages who is himself an employer from any obligation imposed upon him as an employer under the provisions of the Act.

\* *In force 19 December 1975.*

FIRST SCHEDULE  
*(Paragraph 2)*

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CLASSES OF EXEMPTED EMPLOYEES

Persons employed in the service of the Government and—

1. who are subject to the General Orders for the Public Service of Fiji, other than persons employed by way of manual labour or domestic service; or
2. whose terms and conditions of service are prescribed by or under any Act.

SECOND SCHEDULE  
(Paragraph 3)

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CLASSES OF EXEMPTED CONTRACTS AND TRANSACTIONS

1. Any contract of service for the harvesting of sugar cane, in a form approved by the Permanent Secretary for Employment and Industrial Relations\*, a District Officer, Labour Officer or Labour Inspector.
2. Any deductions made from the wages of any of its employees by the Emperor Gold Mining Company Limited arising out of any agreement, approved by the Permanent Secretary for Employment and Industrial Relations\*, with such employee.
3. Any deductions from the wages of any of his employees by any employer arising out of any agreement between such employer and such employee for purpose of repaying any loan, or any portion thereof or any interest thereon, owing by such employee to the Housing Authority or the Home Finance Company Limited under a contract of loan.
4. Any deduction from the wages of any of his employees by any employer arising out of any agreement between such employer and such employee for the purpose of repaying any monies due by such employee to the Housing Authority in respect of the purchase of either a house built or land sold by the Housing Authority, or in respect of rent owing to the Housing Authority:

Provided that the total of any such deduction shall not exceed twenty-five per cent of the employee's wages in respect of any wage period.

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**SECTION I—EMPLOYMENT (EXCLUSION) ORDER**

TABLE OF PROVISIONS

PARAGRAPH

1. Short title
  2. Exclusion
  3. Maximum deduction
- Schedule—Trust Deed

• See *Legal Notice No. 89 of 1982*,

*Short title*

1. This Order may be cited as the Employment (Exclusion) Order\*.

*Exclusion*

2. Subject to paragraph 3, deductions made in terms of clause 25 of the Trust Deed described in the Schedule from the wages of those employees of Air Terminal Services (Fiji) Limited who are beneficiaries under the said Trust Deed shall be excluded from the operation of Part VII of the Act.

*Maximum deduction*

3. Any deductions from wages made pursuant to paragraph 2 shall not, together with any deductions which may be made in terms of paragraph (c) or paragraph (d) of the Second Schedule to the Employment (Application) Order, exceed twenty-five per cent of an employee's wages in respect of any wage period.

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SCHEDULE

Trust Deed made on the 30th day of March 1981 between the Trustees and the Beneficiaries of ATS Employees Trust.

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SECTION 102—EMPLOYMENT (MEDICAL TREATMENT)  
REGULATIONS

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TABLE OF PROVISIONS

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REGULATION

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2. Interpretation
3. Illness or injury to be brought to employer's notice
4. Medical aid or medical treatment to be provided
5. First aid equipment
6. Room for treatment of sick
7. Cost of treatment
8. Provision of transport
9. Reimbursement of hospital charges by employer
10. Penalties

Schedule—First Aid Equipment

*Regulations 10 January 1966 [in force 14 January 1966]*

\* The Order is expressed to expire on 31 December 1986 unless sooner revoked.  
In force I January 1983.

*Short title*

1. These Regulations may be cited as the Employment (Medical Treatment) Regulations.

*Interpretation*

2. In these Regulations, unless the context otherwise requires—
  1. "medical aid" means, in cases of minor illness or injury, the provision of first aid, and includes the provision of such drugs and dressings as may be necessary in such cases;
  2. "medical treatment" means—
  3. medical attention given by a registered medical practitioner to an employee on the instructions of an employer; or
  4. treatment at a dispensary or general out-patient clinic or in a public ward of a public hospital but shall not include any charges levied for special medicines, dressings and other medical supplies. X-ray and laboratory examinations arising out of such treatment;
  5. "Permanent Secretary" means the Permanent Secretary for Employment and Industrial Relations\*.

*Illness or injury to be brought to employer's notice*

3. An employer shall take all reasonable steps to ensure that every case of illness of an employee and of a member of an employee's family who is living on the employer's property and every case of injury of an employee arising out of and in the course of his employment is brought to his notice. Medical aid or medical treatment to be provided

4. Where there is reasonable cause to believe that any employee is suffering from illness or injury, whether contracted as a result of the employee's work or not, every employer shall during the period when the employee is under the control of the employer in pursuance of his contract of service with the employer and with the consent of the employee, cause to be provided for the employee medical aid, or where the nature of the illness so requires, medical treatment. Such medical aid or medical treatment shall be provided at the expense of the employer:

Provided that the employer shall not be required to pay for medical aid or medical treatment when—

(a) the employee has been ordered into hospital under the provisions of section 69 of the Public Health Act, or is suffering from venereal disease, or is entitled to free treatment under the provisions of the Public Hospitals and Dispensaries Regulations; (*Cap. 111.*)

6. the illness or injury is proved to the satisfaction of the Permanent Secretary to have been contracted prior to employment, or to be attributable to illness or

injury contracted prior to employment, or contracted in circumstances not arising out of and in the course of his employment.

\* *See Legal Notice No. 89 of 1982.*

#### *First aid equipment*

5. Every employer shall have readily available in a suitable container the quantity of first-aid equipment specified in the Schedule.

#### *Room for treatment of sick*

6. Every employer who employs not less than one hundred employees in any one place shall, where no public hospital or dispensary facilities are available within four miles by road of the place of employment, provide a room for the treatment of the sick and a registered nurse to supervise the treatment and care of the sick.

#### *Cost of treatment*

7.—(1) Where medical treatment is made available by an employer in pursuance of the provisions of regulation 4 and such treatment is given at a public hospital or dispensary, payment therefore shall be made in accordance with the provisions of the Public Hospitals and Dispensaries Regulations, and where an employee himself pays for such treatment, he shall be entitled to recover the cost thereof from his employer within seven days of the production to his employer of the receipt for the payment made by him at the public hospital or dispensary where the treatment was given:

Provided that the liability of the employer for payment for medical treatment shall extend only until the termination of the employee's contract or for a maximum period of seven days whichever period is the less.

(2) Where on the instructions of his employer, any employee attends a private medical practitioner for medical treatment the employer shall be responsible for the charges incurred in connection therewith and shall himself make arrangements for their payment.

#### *Provision of transport*

8. Where in accordance with the provisions of regulation 4 an employer is required to pay for the medical treatment of an employee and it appears likely that such employee may be required to remain at a public hospital for such treatment then in such case the employer shall provide the necessary transport to convey the employee to the hospital.

#### *Reimbursement of hospital charges by employer*

9. Where an employee (other than a casual employee) has, in pursuance of the provisions of regulation 4, been admitted to a Government hospital the employer shall, within seven days of the production to the employer by the employee of the receipt for the cost of his maintenance and medical treatment at the hospital, reimburse the employee in respect of such charges.

Provided that—

1. the liability of an employer for the payment for such maintenance and medical treatment shall be limited to the scale of charges for treatment in a public ward

- and shall extend only until the termination of the employee's contract or for a maximum period of seven days whichever period is the less; and
2. that no employer shall be liable for hospital charges in respect of an employee—

(i) who is suffering from any infectious disease and who has been ordered into hospital by a Medical Officer of Health under the provisions of section 69 of the Public Health Act, or who is suffering from venereal disease, or who is entitled to free treatment under the provisions of the Public Hospitals and Dispensaries Regulations;  
*(Cap111.)*

1. who is suffering from illness or injury which is proved to the satisfaction of the Permanent Secretary to have been contracted prior to employment or contracted in circumstances not arising out of and in the course of his employment.

### *Penalties*

10. Any person who fails to comply with any of the provisions of these Regulations shall be guilty of an offence against these Regulations and shall be liable on conviction to a fine not exceeding \$20 and in the case of a second or subsequent offence against the same provision to a fine not exceeding \$50 or to imprisonment for a term not exceeding two months or to both such fine and imprisonment.

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### SCHEDULE *(Regulation 5)*

#### FIRST-AID EQUIPMENT

1. *Employers employing 10 persons or less—*

Adhesive Plaster and/or Elasto-Plast .....	1 spool
Lint or Gauze.....	1 roll
Bandages, 1 inch Gauze .....	2 rolls
Bandages, 2 inch Gauze .....	2 rolls
Bandages, 3 inch Gauze .....	2 rolls
Cotton Wool.....	¼ lb.
Antiseptic Wound Lotion (Acriflavine).....	10 ozs
Boric Lotion for Eyes.....	10 ozs
Aspirin or A.P.C. Tablets.....	20

2. *Employers employing not less than 11 and not more than 50 persons—*

Adhesive Plaster and/or Elasto-Plast.....	2 spools
Lint or Gauze.....	2 rolls

Bandages, 1 inch Gauze .....	6 rolls
Bandages, 2 inch Gauze .....	6 rolls
Bandages, 3 inch Gauze.....	6 rolls
Cotton Wool.....	½ lb.
Antiseptic Wound Lotion (Acriflavine).....	1 pint
Boracic Lotion for Eyes.....	1 pint
Aspirin or A.P.C. Tablets.....	50
3. <i>Employers employing more than 50 persons-</i>	
Adhesive Plaster and/or Elasto-Plast .....	4 spools
Lint or Gauze.....	4 rolls
Bandages, 1 inch Gauze .....	12 rolls
Bandages, 2 inch Gauze .....	12 rolls
Bandages, 3 inch Gauze.....	12 rolls
Cotton Wool.....	½ lb.
Antiseptic Wound Lotion (Acriflavine) .....	2 pints
Boracic Lotion for Eyes.....	2 pints
Aspirin or A.P.C. Tablets.....	100

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SECTION **102**—EMPLOYMENT REGULATIONS

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2. Interpretation

PART II—FORMS

3. Contracts to be in the English language
4. Contracts to be in prescribed form
5. Form of bond

PART III—RECORDS

6. Record of wage payments
7. Particulars to be written in the English language
8. Receipt for wages
9. Records to be kept for three years
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PART IV—ANNUAL HOLIDAYS

11. Employer to give paid annual holidays
12. Paid annual holidays
13. Termination of employment
14. Continuity of employment
15. Paid holiday to be given within certain period
16. Wages in respect of annual holiday to be paid in advance
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19. Offence
  20. Fees for medical examination
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Fourth Schedule — Form of Bond for Security for the Payment of Wages  
Fifth Schedule — Scale of Fees

*Regulations 30 April 1965 [in force 15 May 1965]. 18 October 1965,  
Legal Notices Nos. 13 of 1976, 97 of 1976*

## PART I—PRELIMINARY

*Short title*

1. These Regulations may be cited as the Employment Regulations.

### *Interpretation*

2. In these Regulations, unless the context otherwise requires—
  1. "batch contract" means a written contract of service entered into with two or more employees at the same time and place;
  2. "year" means, when used in connection with these Regulations, a period of 365 days (excluding any day which is the twenty-ninth day of February) commencing on the day on which an employee entered the service of an employer, or on any anniversary of that day:

Provided that where an employee entered employment on the

1. twenty-ninth day of February he shall for the purpose of this
2. definition be deemed to have entered that employment on the
3. following day.

## PART II—FORMS

*Contracts to be in the English language*

3. Every contract, bond or other document, the form of which is prescribed by this Part shall be printed, typewritten or written in ink or in combination of such printing, typing or writing in the English language.

*Contracts to be in prescribed form*

4.—(1) Every written contract of service, other than a batch contract or a foreign contract of service or a contract of apprenticeship shall be in the form set out in the First Schedule.

(2) Every batch contract, other than a foreign contract of service, shall be in the form set out in the Second Schedule.

(3) Every foreign contract of service shall be in the form set out in the Third schedule.

*Form of bond*

5. A bond given by an employer under the provisions of subsection (1) of section 48 of the Act shall be in form set out in Fourth Schedule.

PART III—RECORDS

*Record of wage payments*

6. Every employer in an undertaking shall keep a record of wage payments containing the following particulars, where applicable, in respect of each of his employees:—

1. the employee's name;
2. the age and sex of the worker;
3. the nature of employment or job classification;
4. the date of engagement;
5. the days worked and the days absent for leave or any cause during any wage period;
6. the rate of wages;
7. the type of wage period;
8. the amount of overtime worked during any wage period and the rate of wages payable for such overtime;
9. (i) total earnings;
10. any allowances or other sundry payments due to the employee;
11. any deductions made from the total earnings of the employee;
12. total amount due to the employee after all deductions have been made in respect of each wage period;
13. date of termination of the employment.

*Particulars to be written in the English language*

7. The particulars specified in regulation 6 shall be printed, typewritten or written in ink, or in a combination of such printing, typing or writing, in the English language.

*Receipt for wages*

8.—(a) An employer shall obtain the signatures of each employee for all wages paid by such employer thereto; or

1. in the case of the employment of more than twenty-five employees, a person not being the employer, may sign and certify the wages record to the effect that each employee named therein has been paid the amount specified on such record.

*Records to be kept for three years*

9. All records which, by virtue of these Regulations, are required to be kept by employers, shall be retained by the employer for at least three years from the date of the last entry therein.

*Exemptions*

10.—(1) No employer shall be required to keep any record of wage payments in respect of any casual labourer or any domestic Servant employed by him.

- (2) For the purpose of avoiding doubt, it is hereby declared that the provisions of this Part shall not apply to any member of the Armed Forces of the Crown or of any friendly power. (*Amended by Legal Notice 13 of 1976.*)

*Employer to give paid annual holidays*

11 Notwithstanding any other law for the time being in force every employer in any undertaking shall give to his employees paid holidays in accordance with the provisions of this Part:

Provided that nothing in these Regulations shall prevent any employer giving to his employees paid annual holidays in excess of those required to be given in accordance therewith.

*Paid annual holidays*

12.—(1) After each year of employment with an employer, an employee shall be given ten working days' holiday and shall be paid in respect of such holiday the wages he would have been paid for the time he would normally have worked during that period:

Provided that an employee shall not be entitled to the paid annual holiday in respect of any year during which he attended work if he has been absent from work for more than thirty-six normal working days during that year, except where such absence has been due to sickness certified by a medical practitioner. (*Amended by Legal Notice 13 of 1976.*)

- (2) Where an employee is entitled to a paid annual holiday under the provisions of this regulation the employer shall permit the employee to take the annual holiday in one unbroken period, or at the request of the employee, in two or more periods, one of which must be a continuous period of one week.

### *Termination of employment*

13.—(1) Where the employment is terminated after a period exceeding three months but not amounting to one year from the date of its commencement, or after a period of employment following the completion of a year in respect of which the paid annual holiday has been taken, the employer shall, on or before the date of such termination, pay to the employee a sum equal to not less than five-sixths of a day's wages for each completed month of such period. (*Amended by Legal Notice 13 of 1976.*)

(2) When an employee has completed one year's continuous service with an employer and the employment is subsequently terminated, the employer shall, if the employee has not taken his paid annual holiday earned in respect of the year, on or before the date of such termination, pay to the employee the wages due to him in respect of such paid annual holiday, together with a sum equal to not less than five-sixths of a day's wages in respect of each completed month of employment following the completion of the last year in respect of which he has earned a paid annual holiday. (*Amended by Legal Notice 13 of 1976.*)

(3) When an employer or employee gives notice of termination of the employment of the employee, payment to the employee of all or any part of the wages on account of the paid annual holiday to which he is entitled shall be deemed not to be payment of all or any part of his wages in respect of the period for which he is under the provisions of the Act, or by custom or agreement, or under his contract of service, entitled to continue in the employment after the giving of the notice.

### *Continuity of employment*

14. For the purposes of these Regulations employment shall be deemed to continue so long as the employee continues to be employed in the undertaking by or on behalf of the owner thereof for the time being, and shall be deemed not to be discontinued by the termination of any contract of employment entered into by the employee, if within a period of seven days of such termination, such employee is re-engaged in the same undertaking.

### *Paid holiday to be given within certain period*

15. Every employee shall be given the paid holiday provided for in these Regulations not later than six months after the completion of the year in which the holiday has been earned:

Provided that where an employer elects to close a section or sections of his establishment for a fixed period in any year, all or part of the paid annual holiday may, by agreement between the parties, be taken before the completion of the year in respect of which the paid annual holiday may be due in pursuance of the provisions of regulation 12.

### *Wages in respect of annual holiday to be paid in advance*

16. Wages in respect of the paid annual holiday shall be paid in advance on the pay day immediately preceding such holiday.

### *Records of annual holidays*

17.—(1) Every employer employing any employee to whom these Regulations apply shall at all times keep a record showing in the case of each of his employees—

2. the name of the employee;
3. the dates of the commencement and termination of his employment;
4. the dates on which each such holiday is taken;
5. the amount paid to the employee in respect of the paid annual holidays to which he is entitled.

(2) The record of paid annual holidays may be incorporated in the wages record that the employer is required to keep under the provisions of Part III.

*Agreement contrary to Regulations null and void*

18.—(1) Except as provided in paragraph (2), any agreement by an employee to forego the paid annual holiday provided for by these Regulations, even in return for compensation, shall be null and void.

(2) An employer may, with the approval in writing of the Permanent Secretary and subject to such conditions as the Permanent Secretary may impose, agree in writing with all or any of his employees that paid annual holidays may be deferred and accumulated over a period not exceeding four years:

Provided that such an agreement may be concluded without the approval of the Permanent Secretary in any case where an employee is engaged under a contract of service the terms of which provide that the employee's wages shall be on the basis of an annual amount payable in not less than twelve nor more than twenty-six equal instalments.

*(Substituted by Legal Notice 97 of 1976.)*

PART V—GENERAL

*Offence*

19.—(1) Any person who contravenes or fails to comply with any of the provisions of these Regulations shall be guilty of an offence and shall be liable to a fine not exceeding \$100 or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(2) Any employer who is convicted of an offence under any of the provisions of Part IV may, in addition to any penalty which may be imposed under the provisions of paragraph (1), be ordered to pay to the employee a sum equal to the amount of any wages due to the employee in respect of the paid annual holiday, or the proportion thereof, to which the employee is entitled but has not been given.

*(Inserted by Legal Notice 13 of 1976.)*

*Fees for medical examination*

20. The fee to be paid to a medical officer by an employer in respect of each employee examined by him under the provisions of subsection (6) of section 36 of the Act shall be the amount set out in the Fifth Schedule.

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FIRST SCHEDULE

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EMPLOYMENT ACT  
EMPLOYMENT REGULATIONS  
(Regulation 4 (1))

GENERAL FORM OF WRITTEN CONTRACT OF SERVICE  
PART I

AN AGREEMENT made at ..... between.....  
of.....  
(employer) and the person named in Part II hereof as the employee on the conditions set forth in Part III hereof.

PART II

*Particulars of Employee—*

Name.....

Address.....

If the employee has been recruited state—

(i) Name of recruiter .....

(ii) Place of recruitment .....

(iii) Date of recruitment .....

PART III

*Conditions of Contract—*

1. Place of employment .....

2. Nature of employment.....

3. (a) Duration of Contract –  
for .....calendar months/weeks/days commencing on .....  
....., 19 .....

14. The contract is determinable at any time upon notice of intention to terminate the contract being given by either party to the other.....month(s), week(s) before the date of the intended termination.

4. (a) Rate of wages—  
.....per month/week/day/hour.

If it is proposed to use any other method for assessing the rate of wages, for example by reference to tasks or piecework, details should be given below.....

(b) Times when wages become due.....

5. (a) \*The employer shall, at his own expense, provide the employee with food in accordance with the following scale:—

(i) ..... per.....

(ii) ..... per.....

(iii) ..... per.....

(iv) ..... per.....

(v) ..... per.....

(b) \*The employer shall, at his own expense, provide the employee with the following cooking utensils/means of cooking—

6. \*The employer shall at all times, at his own expense, provide reasonable housing accommodation for the employee at or near to the place of employment:

Provided that where the employer elects not to provide housing accommodation he shall pay the employee such sufficient sum, as rental, in addition to his wages, as will enable the employee to obtain reasonable accommodation.

7. Other conditions –  
.....

PART IV

I agree to abide by the conditions of this contract.

.....  
*Signature of Employer*

.....  
*Signature or thumb-print of Employee*

Date..... 19.....

PART V

\*I HEREBY CERTIFY that I have examined the person named herein as the employee, and that such person is physically fit to perform the work contemplated by this contract. (i)

.....  
*Signature of Medical Officer*

Date..... 19.....

\* Delete as necessary.

I HEREBY CERTIFY that I have read over and explained this contract to the person named therein as the employee and that he, with full understanding of the meaning of the contract, has voluntarily assented thereto. (ii)

Date..... 19.....

.....  
*Signature of Attesting Officer*

.....  
*Designation*

*Notes—*

1. Under section 36 of the Employment Act, an employee entering into a written contract is required to be medically examined unless exempted by the Permanent Secretary for Employment and Industrial Relations under subsection (7) of that section.
2. Contracts for more than six months are required to be attested.

SECOND SCHEDULE

---

EMPLOYMENT ACT  
EMPLOYMENT REGULATIONS  
*(Regulation 4 (2))*

FORM OF WRITTEN BATCH CONTRACT OF SERVICE  
PART I

AN AGREEMENT made at ..... between..... of.....  
(employer) and the several employees whose names, particulars and signatures (or thumb-prints) are shown in the list appearing in Part IV hereof.

PART II

*General—*

If the employees have been recruited state—

- (i) Name of recruiter.....
- (ii) Place of recruitment .....
- (iii) Date of recruitment.....

Part III

*Conditions of Contract*

1. Place of Employment .....
2. Nature of Employment .....
3. (a) Duration of contract—  
for..... \* calendar months/weeks/days commencing  
on....., 19.....

1. \*The contract is determinable at any time upon notice of intention to terminate the contract being given by either party to the other-.....\*month (s), week(s) before the date of the intended termination.

4. (a) Rate of wages—

..... \*per montlyweek/day/hour.

If it is proposed to use any other method for assessing the rate of wages, for example by reference to tasks or piecework, details should be given below.....

\*(b) Times when wages become due

5. \*(a) The employer shall, at his own expense, provide each employee with food in accordance with the following scale:—

- (i) ..... per.....
- (ii) ..... per.....
- (iii) ..... per.....
- (iv) ..... per.....
- (v) ..... per.....

1. The employer shall, at his own expense, provide each employee with the following cooking utensils/means of cooking:—

6. The employer shall at all times, at his own expense, provide reasonable housing accommodation for each employee at or near the place of employment:

Provided that where the employer elects not to provide housing accommodation he must pay the employee such sufficient sum, as rental, in addition to his wages, as will enable the employee to obtain reasonable accommodation.

7. Other conditions—

.....

PART IV

We, the parties hereto, agree to abide by the conditions of this contract

.....  
*Signature of Employer*

\*Delete as necessary

Particulars and signatures (or thumb-prints) of employees

<i>Name</i>	<i>Address</i>	<i>Signature or Thumb-print</i>
1.		
2.		
3.		
4.		
5.		
6.		

- 7.
- 8.

PART V

\*I HEREBY CERTIFY that I have examined the persons named above as the employees, and numbered from.....to .....and that, with the exception of those whose names I have deleted and initialled, they are physically fit to perform the work contemplated by this contract. (i)

.....  
*Signature of Medical Officer*  
Date..... 19.....

PART VI

\*I HEREBY CERTIFY that I have read over and explained this contract to all the employees concerned and that they with full understanding of the meaning of the contract, have individually and voluntarily assented thereto.(ii)

.....  
*Signature of Attesting Officer*  
.....  
*Designation*  
  
Date..... 19.....

*Notes—*  
(i) Under section 36 of the Employment Act, employees entering into a written contract are required to be medically examined unless exempted by the Permanent Secretary for Employment and Industrial Regulations under subsection (7) of that section.  
(ii) Contracts for more than six months are required to be attested.  
\* Delete as necessary.

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THIRD SCHEDULE

EMPLOYMENT ACT  
EMPLOYMENT REGULATIONS  
*(Regulation 4 (3))*  
*(Amended by Legal Notice 13 of 1976.)*

FORM OF FOREIGN CONTRACT OF SERVICE

PART I

AN AGREEMENT made at.....  
between  
.....of .....employer) and the  
person named in Part II hereof as the employee on the conditions set forth in Part III  
hereof.

## PART II

### *Particulars of Employee—*

(i) Name.....

(ii) Address.....

### *Particulars of employee's family (if accompanying him)—*

(a)..... (relationship)

(b).....(relationship)

(c)..... (relationship)

(d)..... (relationship)

## PART III

### *Conditions of Contract—*

2. Place of employment .....
3. Nature of employment.....
4. —(a) Duration of contract –  
for..... calendar months/weeks/days commencing  
with the departure of the employee  
from.....on.....
5. The contract may only be terminated in accordance with the law and practice  
of the territory of.....
  
- 4.—(a) Rate of wages—  
.....per month/week/day/hour.
  
6. With the exception of the sum of ..... which shall be remitted  
each week/month to..... of (address)
7. ....on.....of each week/month, wages
8. shall be paid .....weekly/monthly during the currency
9. of.....

5.—(a) \*The employer shall, at his own expense, provide the employee with food in  
accordance with the following scale:—

- (i) ..... per.....
- (ii) ..... per.....
- (iii) ..... per.....
- (iv) ..... per.....
- (v) ..... per.....

1. \*The employer shall in addition to cash wages, pay the employee a food  
allowance of..... per month/week/day. Such allowance shall be

paid with effect from ..... and shall cease on termination of the contract:

2. Provided that if food is not included in the cost of the transport
3. provided by the employer in accordance with paragraph 5 (c) hereof
4. allowance shall continue to be paid for the duration of the
5. journey to the employee's home.
6. (c) The employer shall at his own expense provide transport by ..... for employee/and his family\* from the place where the contract was attested to the place where the contract is to be performed and on the termination of the contract the employer shall at his own expense provide transport by..... to he employee's home.
7. The employer shall, unless the employee has broken his contract of service or the contract is frustrated or its performance prevented by act of God, provide his employee with work in accordance with the contract during the period for which the contract is binding, on a number of days equal to the number of working days expressly or impliedly provided for in the contract, and if the employer fails to provide work as aforesaid he shall pay to the employee, in respect of every day on which he shall so fail, wages at the same rate as if the employee had performed a day's work.

6. \*The employer shall at all times, at his own expense provide reasonable housing accommodation for the employee/and his family\* at or near to place of employment.

(Where the employer elects not to provide housing accommodation, he must pay the employee such sufficient sum, as rental, in addition to his wages, as will enable the employee to obtain reasonable accommodation.)

7. The contract, except in so far as is inconsistent with its express terms, shall be subject to the provisions of the Workmen's Compensation Act:

(Cap. 94.)

Provided that if there are in force at the place of employment laws in relation to workmen's compensation more favourable to the employee than those in force in Fiji the contract shall be subject to the provisions of the laws in force at the place of employment.

8. Other conditions—

.....

\* Delete as necessary.

#### PART IV

I agree to abide by the conditions of this contract.

.....  
*Signature of Employer*

.....  
*Signature or thumb-print of Employee*

Date ....., 19.....

#### PART V

HEREBY CERTIFY that I have examined the person named herein as the employee, and that such person is physically fit to perform the work contemplated by this contract. (i)

.....

*Signature of Medical Officer*  
Date....., 19 .....

PART VI

I HEREBY CERTIFY that I have read over and explained this contract to both parties named therein as the employee and employer and that they, with full understanding of the meaning of the contract, have voluntarily assented thereto. (ii)

.....  
*Signature of Attesting Officer*  
.....  
*Designation*

Date....., 19.....

*Notes—*

1. An employee is required to be medically examined before his departure from Fiji. (Sections 36 (4) and 47 (1) (c) of the Employment Act.)
2. Foreign contracts are required to be attested before the employee leaves Fiji; they must not exceed two years in cases where an employee is accompanied by his family; where he is not accompanied by his family contracts shall not exceed one year. (Section 47 (1) (a) and (e) of the Employment Act.)

\* Delete as necessary.

FOURTH SCHEDULE

EMPLOYMENT ACT  
EMPLOYMENT REGULATIONS  
(Regulation 5)

FORM OF BOND FOR SECURITY FOR THE PAYMENT OF WAGES

BY THIS BOND I/we.....of.....(hereinafter called "the employer") do hereby bind myself (ourselves) to the GOVERNMENT OF FIJI for the payment to it of the sum of.....

SEALED with my (our) seal(s) this.....day of..... 19.....

WHEREAS the employer is about to engage ..... (and) .....(hereinafter called "the employee(s)") as an employee(s) and has been required under subsection (1) of section 48 of the Employment Act, to give security for the

payment of his (their) wages.

NOW THE CONDITION of the above-written bond is such that if the employer shall throughout the term of engagement of the employee(s) pay the wages of the employee(s) promptly and in full then the above-written bond shall be void but otherwise shall remain in full force and effect.

SIGNED, SEALED AND DELIVERED by the above-bounden )  
..... ) L.S.

in the presence of:— ..... )  
SIGNED, SEALED AND DELIVERED by the above-bounden )

..... ) L.S.  
in the presence of:— ..... )

SIGNED, SEALED AND DELIVERED by the above-bounden )  
..... ) L.S.

in the presence of:— ..... )

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#### FIFTH SCHEDULE

#### SCALE OF FEES (Regulation 20)

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The fee to be paid to a medical officer by an employer in respect of each employee examined by him under the provisions of subsection (6) of section 36 shall be \$2.10 together with any charges prescribed in the First Schedule to the Public Hospitals and Dispensaries Regulations.

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*Controlled by Ministry of Employment and Industrial Relations*