

LAWS OF THE GILBERT ISLANDS
REVISED EDITION 1977

CHAPTER 30

EMPLOYMENT

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title
2. Interpretation
3. Term of contract

PART II

ADMINISTRATION

4. Commissioner of Labour and other officers
5. Powers of Commissioner and Health Officer to enter places of employment, to interrogate, etc.
6. Returns by employers, inspection of documents, etc.
7. Power of summons and institution of proceedings
8. Offences

PART III

WAGES AND HOURS OF WORK

9. Liability of worker for advances and loans
10. Days and hours of work, and overtime rates, may be specified by Commissioner, etc.
11. Task work
12. Records concerning workers
13. Period for which wages payable
14. Payment of wages
15. Payment in stores, etc., prohibited
16. Wages to be paid in legal tender
17. Contracts to pay wages otherwise than in legal tender illegal
18. Stipulation as to place and manner of spending wages illegal
19. Worker's right to recover
20. Interest on advances forbidden

Section

21. Certain deductions from wages may be made
22. Remuneration other than wages
23. Employer's shop
24. Power of employer to exempt himself if other person proved actual offender and proceedings against such a person in first instance
25. Penalties

PART IV

MINIMUM WAGE

26. Interpretation
27. Fixing of minimum wage
28. Penalty for not paying wages in accordance with minimum rate
29. Miscellaneous provisions with regard to legal proceedings
30. Offence by agent
31. Employers not to receive premium where minimum rates in force
32. Prevention of evasion
33. Exemption

PART V

RECRUITING OF WORKERS

34. Interpretation
35. Recruiting of workers to be under licence
36. Matters to be considered before granting licence
37. Restriction on recruitment
38. Application for recruiting licence
39. Conditions of recruiting licence
40. Term of licence
41. Professional recruiters
42. Cancellation of licence
43. Persons under the age of 18 not to be recruited
44. Provisions relating to the family of recruit
45. Chiefs and public officers not to recruit or assist recruiting
46. Licensees' assistants to obtain a permit
47. Remuneration of licensees' agents
48. Licensees to keep records
49. Examination of recruits
50. Recruiter to defray expenses of journey, etc.
51. Return to home of recruit and his family in certain circumstances
52. Advances against wages
53. Penalty

Section

PART VI

WRITTEN CONTRACTS OF EMPLOYMENT

54. Interpretation
55. Certain contracts to be in writing
56. Form and particulars of contract
57. Attestation of contracts
58. Disposal of copies of contract
59. Medical examination
60. Workers under 18 years may not enter into contract
61. Maximum duration of contracts
62. Transfer to other employment
63. General termination of contract
64. Cancellation of contract by Commissioner
65. Dismissal by the employer without notice
66. Contracts for service outside the Gilbert Islands
67. Extra-territorial contracts for employment in the Gilbert Islands
- ~~68. Employment of immigrant workers~~
69. Rights and obligations of worker and employer in respect of repatriation
70. Exemption from obligation to repatriate
71. Employer to provide transport
72. Summaries of law
73. Penalty

PART VII

FORCED LABOUR

74. Interpretation
75. Prohibition of forced labour

PART VIII

EMPLOYMENT OF WOMEN

76. Interpretation
77. Prohibition of employment of women at night
78. Suspension of prohibition
79. Prohibition of employment of women in mines
80. Women employed to be permitted to be absent from work in certain circumstances
81. Restriction on dismissal of woman employee
82. Penalty

Section

PART IX

EMPLOYMENT OF CHILDREN AND OTHER YOUNG PERSONS

83. Interpretation
84. Employment of children under 14 forbidden
85. Employment of persons under 15
86. Employment underground of male persons under 16
87. Employment of persons under 18
88. Register of young persons
89. Presumption of age
90. Penalty

PART X

APPRENTICES

91. Interpretation
92. Contracts of apprenticeship of persons over 14 and under 16
93. ~~The Commissioner may appoint person to execute contract of apprenticeship~~
94. Contracts of apprenticeship of persons over 16 years
95. Assignment of contracts of apprenticeship
96. Attestation of contract of apprenticeship
97. Duties of Commissioner on attesting contract of apprenticeship
98. Retention of apprentices after expiry of contract
99. Powers of Commissioner
100. Exemption of employer from provisions of this Part
101. Cancellation of exemption

PART XI

CARE OF WORKERS

102. Interpretation
103. Rations
104. Water
105. Sanitary arrangements
106. Housing
107. Medical care and treatment
108. Hospital maintained by employers
109. Directions in regard to housing and sanitation
110. Reporting of deaths
111. Conveying of workers by sea
112. Penalty

Section

PART XII

GENERAL

- 113. Application to Crown
- 114. Priority for wages among debts of bankrupt or body corporate being wound up
- 115. Criminal proceedings
- 116. Civil proceedings
- 117. Court fees
- 118. Power to exempt persons from provisions of this Ordinance

PART XIII

REGULATIONS

- 119. The Minister may make regulations

PART XIV

SAVING

- 120. Saving

An Ordinance to declare the law relating to employment

Commencement: 22nd April 1966

6 of 1965
9 of 1969
8 of 1971
3 of 1972
(Cap. 84 of
1973)
L.N. 33/69

PART I

PRELIMINARY

1. This Ordinance may be cited as the Employment Ordinance. Short title.
2. In this Ordinance, unless the context otherwise requires— Interpretation
 - “agricultural undertaking” includes processes conducted on the undertaking for the preservation and despatch of the agricultural products of the undertaking, unless any such processes are specifically declared by order made by the Minister to be parts of any industrial undertaking;
 - “commercial undertaking” includes—
 - (1) 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;

- (2) establishments for the treatment or care of the aged, infirm, sick, destitute, or mentally unfit;
- (3) hotels, restaurants, boarding houses, clubs, cafes and other refreshment houses;
- (4) theatres and places of public amusement; and
- (5) any establishment similar in character to those enumerated in sub-paragraphs (1), (2), (3) and (4) above;

“Commissioner” means the Commissioner of Labour appointed under the provisions of section 4;

“domestic servant” means any house, stable or garden servant or car driver employed in, or in connection with, the domestic services of any private dwelling-house;

“employer” means any person by whom a worker is employed and includes a prospective employer and the Government;

“family” includes the wife of a worker and his children who are unmarried and under the age of 14 years;

“Health Officer” means the person for the time being performing the duties of the office of Chief Medical Officer and includes any officer to whom, by writing under his hand, he delegates the exercise or performance of all or any of the powers or duties conferred or imposed on the Health Officer by this Ordinance to the extent of the powers or duties so delegated;

“immigrant worker” means any worker whose passage to the Gilbert Islands has been provided in consideration of a promise to perform work in the Islands;

“industrial undertaking” includes—

- (1) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed including undertakings engaged in shipbuilding, in the generation, transformation, or transmission of electricity, in the production or distribution of gas or motive power of any kind, in the purification or distribution of water, or in heating or cooling;

- (2) undertakings engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any one or more of the following—

Buildings, railways, tramways, airports, harbours, docks, piers, works of protection against floods or coast erosion, canals, works for the purpose of inland, maritime or aerial navigation, roads, tunnels, bridges,

viaducts, sewers, drains, wells, irrigation or drainage works, telecommunication installations, works for the production or distribution of electricity or gas, pipelines, waterworks, and undertakings engaged in other similar work or in the preparation for or laying the foundation of any such work or structure;

- (3) mines, quarries or other works for the extraction of minerals from the earth; and
- (4) undertakings engaged in the transport of passengers or goods, including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand unless such undertakings are regarded as part of the operation of an agricultural or commercial undertaking;

“medical officer” means any person in the service of the Government who is a medical practitioner;

“medical practitioner” includes any person registered as a medical officer under the provisions of the Medical and Dental Practitioners Ordinance; Cap. 55

“month to month” in relation to a contract means a contract for 1 month renewable from month to month;

“seaman” means any person employed as a member of the crew of any vessel or boat whatsoever (other than a ship of war) engaged in maritime navigation whether privately or publicly owned;

“undertaking” means an undertaking whether public or private;

“worker” means a clerical worker, labourer, servant in husbandry, journeyman, boatman, artificer, handicraftsman, miner, mechanic, agriculturalist, gardener, seaman, motor-driver, or other person engaged in clerical or manual labour or in supervising such, who has entered into or works under a contract with an employer and includes any immigrant worker and any worker who is apprenticed, but does not include—

- (1) any domestic servant, or
- (2) in Part III of this Ordinance, any clerical worker who is, for the time being, entitled to receive for clerical work done by him under any contract or contracts of employment any money or other consideration, the rate of which exceeds in amount or value, or both, \$400 per annum.

Term of contract

3. In default of any agreement to the contrary whether express or implied every contract of employment shall be deemed to be from month to month determinable by either party on 1 month's notice or by the payment of 1 month's wages in lieu of notice.

PART II

ADMINISTRATION

Commissioner of Labour and other officers

4. (1) The Minister may appoint an officer to be the Commissioner of Labour, and may appoint one or more officers to be Deputy Commissioners of Labour and Assistant Commissioners of Labour and such other officers as may be necessary for carrying out the provisions of this Ordinance who, subject to such limitations as the Minister may prescribe, may perform all duties imposed and exercise all powers conferred on the Commissioner by this Ordinance.

(2) If any employer is aggrieved by any decision or order of any of the officers (other than the Commissioner) referred to in subsection (1) made or given by virtue of the provisions of that subsection, he may require that such decision or order be confirmed by the Commissioner, who may confirm or rescind such decision or order or substitute therefor any decision or order which could be lawfully given in accordance with the provisions of this Ordinance.

(3) If any employer is aggrieved by any decision or order of the Commissioner made or given either originally or pursuant to the preceding subsection, he may require that such decision or order be confirmed by the Minister who may confirm or rescind such decision or order or substitute therefor any decision or order which could be lawfully given in accordance with the provisions of this Ordinance.

(4) Subject to such exceptions as may be prescribed, an officer appointed under subsection (1) of this section—

- (a) shall not have any direct or indirect interest in any undertaking under his supervision;
- (b) shall not reveal, either during the subsistence of his appointment or subsequently, any manufacturing or commercial secrets or working processes which may come to his knowledge in the course of his duties; and

- (c) shall treat as absolutely confidential the source of any complaint bringing to his notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection has been made in consequence of the receipt of such a complaint.

(5) Any officer who contravenes any of the provisions of subsection (4) shall be liable to a fine of \$100 and to imprisonment for 3 months, and in the case of a second or subsequent offence to a fine of \$200 and to imprisonment for 6 months.

5. (1) The Commissioner or Health Officer may enter at all times upon any place which he has reasonable cause to believe is a place of employment and into any house or accommodation provided by an employer for workers, and put questions, either alone or in the presence of witnesses, concerning the workers to the employer or to any person who may be in charge of the workers or to the workers themselves and the employer or such person, or any such worker, shall be equally bound to answer such questions truthfully to the best of his ability:

Powers of
Commissioner
and Health
Officer to
enter places
of employ-
ment, to
interrogate,
etc.

Provided that—

- (i) the Commissioner or Health Officer shall not enter or inspect a private dwelling-house without the consent of the occupier thereof;
- (ii) on the occasion of a visit or inspection the Commissioner or Health Officer shall notify the employer or his representative of his presence, unless he has reasonable grounds for believing that such notification may be prejudicial to the performance of his duties.
- (2) The Commissioner or Health Officer shall produce his written appointment as such upon demand—
- (a) by any person in charge of any place or premises in respect of which, or wherein, any power conferred under the preceding subsection is, or is about to be, exercised; and
- (b) by any person required by him under any power conferred by the preceding subsection to do, or to refrain from doing, any particular act or thing.
- (3) If the Commissioner or Health Officer has reasonable grounds for suspecting that any offence has been committed against a worker, and whenever any complaint of personal ill-usage or breach of any of the provisions of this Ordinance is made to the Commissioner or Health Officer, the Commissioner or Health Officer, as the case may be, may forthwith remove, or cause to be removed, such worker from the place of employment where he is employed for further enquiry into the matter.

(4) The Commissioner or Health Officer may by order in writing require any employer to take within such reasonable time as the Commissioner may determine such steps as he considers necessary with a view to remedying defects observed in plant, layout, working methods, supervision, medical or sanitary provisions or other matters at any place of employment which he may have reasonable cause to believe constitute a threat to the health or safety of the worker.

Returns by employers, inspection of documents, etc.

6. (1) Every employer shall furnish to the Commissioner such return or returns, which shall be accurate and complete in every particular, in such form or forms as shall be prescribed.

(2) The Commissioner or Health Officer may call for and examine all contracts, registers, books of account and other documents concerning any workers or relating to their employment.

(3) The Commissioner or Health Officer may take and remove for purpose of analysis samples of materials and substances used or handled by any worker in the course of his employment, subject to the employer of such worker, or the representative of that employer, being notified of any samples or substances taken or removed for such purpose.

Power of summons and institution of proceedings

7. (1) Whenever the Commissioner has reasonable grounds for suspicion that any offence under this Ordinance has been committed or wishes to enquire into any matter concerning disputes as to wages, alleged wrongful termination of agreement or contract, misconduct, food, medical attendance, death, mining usage or mining complaint, inspection, sanitation or any other matter relating to employer and worker dealt with under the provisions of this Ordinance, the Commissioner may summon any person whom he has reason to believe can give information respecting the subject matter of the enquiry, and the person so summoned shall be bound to attend at the time and place specified in the summons and to answer all questions which the Commissioner may put to him.

(2) If the Commissioner is of opinion that an offence has been committed or that any complaint is well founded he may institute such proceedings, criminal or civil, for and in the name of the worker as he shall deem necessary in the circumstances.

Offences

8. Any person who hinders or obstructs the Commissioner or Health Officer acting in the execution of his duty under this Ordinance or who refuses to produce any document or give any information lawfully required of him, or who produces a docu-

ment or gives information which he knows to be false, shall be liable to a fine of \$100 or to imprisonment for 6 months.

PART III

WAGES AND HOURS OF WORK

9. (1) The total amount of all loans or advances of wages or both made by an employer to a worker or to a person in consideration of his taking up employment as a worker shall not without the previous permission of the Commissioner exceed an amount equivalent to the wages earned by the worker during the previous month or if he has not been employed for that period the wages he is likely to earn during 1 month.

Liability of
worker for
advances and
loans

(2) No worker shall be held to be liable for the amount of any loan or advance or both made to him under the preceding subsection by his employer which exceeds the amount authorised under subsection (1).

(3) Subject to the provisions of subsections (1) and (2), an employer may deduct or stop from the wages payable to a worker—

- (a) the actual or estimated cost to the employer of any materials, tools and implements supplied by the employer to the worker at the latter's request to be used by him in his occupation; and
- (b) any sums advanced by the employer to the worker by way of loan or advance of wages in anticipation of the regular period of payment of his wages:

Provided that the total amount which may be stopped or deducted from the wages of a worker in any pay period under the provisions of this subsection shall not exceed one-third of the wages of the worker in that pay period.

10. After consultation with representatives of organisations of the workers in any particular industry, occupation or area, and with representatives of organisations of their employers, the Commissioner may by order specify the days and hours of work for such workers and the rates at which they shall be paid for any work in excess of that specified.

Days and
hours of
work, and
overtime
rates, may be
specified by
Commissioner,
etc.

11. (1) Any employer and a worker may agree to the assignment of a task to be performed by the worker as equivalent to work for a day of 8 hours and the performance of such task shall,

Task work

for the purposes of this Ordinance, be equivalent to working for a day.

(2) Nothing in this Part contained shall prevent any employer from agreeing with any worker in his employment that the wages of such worker shall be paid at an agreed rate in accordance with the amount of work done and not by the month or by the day.

Records con-
cerning
workers

12. Every employer shall keep records concerning his workers containing sufficient information to form a full record of the workers and of the terms and conditions of their employment and, in addition to any other record, shall keep a register or check roll showing the names of the workers, place of recruitment, nature of employment, rate of wages, amount and value of rations (if any), amount earned, advances, deductions, net amount due, amount paid and any bonus due whether paid monthly or at the end of the contract.

Period for
which wages
payable

13. In any contract it may be stipulated, subject to the provisions of section 10, that wages shall only be payable for days actually worked, for public holidays, and for days other than Sundays or other rest days on which through no fault of the worker no work is provided by the employer.

Payment of
wages

14. (1) Where the wages of a worker are payable monthly they shall be paid not later than 1 day after the expiration of the period in respect of which they are due.

(2) All wages due to a worker whose contract is terminated by expiry of the period for which it was made shall be paid to him on the day on which such agreement or contract terminates.

(3) All wages due to a worker whose contract is terminated by his employer shall be paid to him on the day on which such contract is terminated, or if this is not possible, on the first day, not being a rest day or public holiday, after the day on which such agreement or contract is terminated.

(4) All wages due to a worker who terminates his contract with his employer after he has given due notice to such employer as required under section 3 or under section 63 shall be paid to him on the day on which such agreement or contract is terminated.

(5) If a worker terminates his contract without giving notice to his employer as required by the terms of any contract or if the required notice having been given the worker terminates his contract without waiting for the expiry of such notice, all wages due shall be paid to him before the expiry of the tenth day after the day on which he terminates his contract:

Provided that the employer may, subject to any order made by a court or the Commissioner to the contrary, deduct from the wages due to the worker such sum as the worker is liable to pay in lieu of notice according to the terms of his contract, if any.

(6) The Commissioner may in the case of any wages paid in any particular industry, or by any particular employer, by order extend by any period not exceeding 5 days any of the periods within which wages are required to be paid by any of the preceding provisions of this section.

15. No wages shall be paid to any worker—

- (a) at or within any shop or store;
- (b) at any place or premises where intoxicating liquors are sold; or
- (c) at any place of amusement:

Provided that this section shall not apply to any worker who is normally employed in any such shop, store, place or premises.

Payment in stores, etc., prohibited

16. (1) Except where otherwise expressly provided by this or any other Ordinance the entire amount of the wages earned by, or payable to, any worker in respect of any work done by him shall be actually paid directly to him in legal tender and every payment of, or on account of, any such wages made in any other form shall be illegal, null and void.

Wages to be paid in legal tender

(2) Nothing contained in this section or in section 17 of this Ordinance shall be construed to prevent or to render invalid any contract for the payment to the credit of any bank account in the name of the worker any payment in pursuance of such contract or any actual payment by cheque made payable to, or the order of, any worker of the whole or any part of his wages if such worker shall have consented in writing to such contract of payment, payment in pursuance thereof or actual payment by cheque.

17. In any contract for the employment of any worker or for the performance by any worker of any work, the wages of such worker shall, subject to the provisions of section 16 (2), be made payable in legal tender and not otherwise and if in any contract provision is made for the whole or any part of such wages to be made payable in any other manner, such provision shall be null and void.

Contracts to pay any wages otherwise than in legal tender, illegal

18. No employer shall provide in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom, any wages paid to the

Stipulation as to place and manner of spending wages illegal

worker are to be expended and any such provision in a contract between an employer and a worker shall be illegal, null and void.

Worker's
right to
recover

19. Every worker shall be entitled to sue for and recover by legal process so much of his wages exclusive of sums lawfully deducted in accordance with the provisions of this Ordinance as shall not have been paid to him in accordance with the provisions of section 16.

Interest on
advances for-
bidden

20. 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 worker.

Certain
deductions
from wages
may be made

21. (1) Notwithstanding anything to the contrary in this Ordinance contained, an employer may with the consent of the worker make deductions from the wages of that worker and pay to the appropriate person or account any contributions to provident or pension funds or schemes to which the worker has agreed to contribute, and which the Commissioner has approved.

(2) Subject to the provisions of subsection (1) and except where otherwise expressly permitted by the provisions of any law no employer shall make any deduction or make any agreement or contract with a worker for any deduction from wages to be paid by the employer to the worker or for any payment to the employer by the worker for or in respect of any lost time, or of bad or negligent work or of injury to the materials or other property of the employer.

(3) No worker shall be required to make a direct or indirect payment for the purpose of obtaining or retaining employment and no deduction may be made from the wages of a worker for this purpose by an employer or his representative or a recruiter.

Remuneration
other than
wages

22. (1) No contract with any worker containing a provision that he shall receive food, or a dwelling place in addition to a monetary wage as remuneration for his services shall be illegal by reason only of such a provision, but the value of any food or dwelling place so provided shall be expressed in monetary terms in any such contract.

(2) No employer shall give, or agree to give, any intoxicating liquor or any noxious drug to any worker by way of remuneration.

Employer's
shop

23. (1) Nothing in this Part shall prevent an employer from establishing a shop for the sale of food and domestic goods to his workers at prices which are in the opinion of the Commissioner

fair and reasonable and which are marked or exhibited in such manner as the Commissioner may require but such employer shall not compel any worker to purchase food and domestic goods at such shop.

(2) No employer shall trade with any worker or establish or keep a shop on any place of employment otherwise than in accordance with the preceding subsection.

(3) No person employed at any place of employment as a manager or an overseer shall traffic on such place on his own account with any worker employed under or together with him nor shall such person be either directly or indirectly financially concerned in the management of any shop wheresoever it be situated which is used or maintained for the purpose of supplying commodities of any kind whatsoever to those employed under or together with such person.

24. (1) Where any employer is charged with an offence against this Part, he shall be entitled, upon information duly laid by him and on giving to the prosecution not less than 3 days' notice in writing of his intention, to have any other person, whether or not employed by him, 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—

Power of employer to exempt himself if other person proved actual offender and proceedings against such a person in first instance

(a) that he has used all due diligence to enforce the provisions of this Part; and

(b) that the said other person had committed the offence in question without his consent, connivance or knowledge,

that other person shall be summarily convicted of the offence, and the employer shall not be guilty of the offence, and the person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(2) Where an employer seeks to avail himself of the provisions of the preceding subsection, the prosecution, as well as the person whom the employer charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witnesses called by him in support of his pleas, and to call rebutting evidence.

(3) Where it appears to the Commissioner that an offence has been committed in respect of which proceedings might be taken under this Part against some employer and the Commissioner is reasonably satisfied that the offence was due to the act or default

of some other person and that the employer could establish a defence under subsection (1), then the Commissioner may cause proceedings to be taken against the person who committed the offence without first causing proceedings to be taken against the employer. In any such proceedings the said person who committed the offence may be charged with, and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the employer might have been charged.

Penalties

25. Any employer who—

- (a) fails to pay wages in accordance with the provisions of this Part; or
- (b) gives any remuneration for services contrary to the provisions of this Part, or makes any deductions from the wages of any worker or receives any payment from any worker contrary to the provisions of this Part; or
- (c) trades with his workers or keeps a shop otherwise than in accordance with the provisions of this Part; or
- (d) contravenes or fails to comply with any order of the Commissioner made under this Part;

and any person employed at a place of employment, who contravenes the provisions of section 23 (3) shall be liable to a fine of \$100 or in default of payment thereof to imprisonment for 6 months.

PART IV

MINIMUM WAGE

Interpretation

26. In this Part, unless the context otherwise requires, the term "minimum wage" means the minimum rate of wages fixed as in this Part provided in respect of the particular occupation followed by the person concerned and applicable to that person.

Fixing of
minimum
wage.

27. (1) The Minister may by order fix minimum rates of wages for workers in any occupation or in any class or grade of any occupation in the Gilbert Islands, either generally or in any specified area or district, in any case in which he is satisfied that the minimum rate of wages being paid to any persons employed in any such occupation is unreasonably low.

(2) Before making any order under this section fixing a minimum rate of wages for any workers the Minister shall consult with the representatives of the employers of such workers and with representatives of the workers.

28. (1) Where any minimum rate of wages has been fixed under this Part, an employer shall in cases to which the minimum rate is applicable pay wages to the person employed at not less than the minimum rate, and if he fails to do so shall be liable in respect of each offence to a fine of \$40, and to a fine of \$10 for each day on which the offence is continued after conviction therefor.

Penalty for not paying wages in accordance with minimum rate

(2) On conviction of an employer under this section for failing to pay wages at not less than the minimum rate to a person employed, the court may by the conviction adjudge the employer convicted to pay in addition to any fine such sum as appears to the court to be due to the person employed on account of wages, the wages being calculated on the basis of the minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to claim recovery of wages due to him by civil proceedings.

29. (1) Where any employer has been convicted for failing to pay wages at not less than the minimum rate to any person employed by him, and notice of intention so to do has been served with the summons, evidence may be given of any failure on the part of the employer to pay wages at not less than the minimum rate to such person at any time during the 2 years immediately preceding the date on which the complaint was made, and on proof of the failure the court may order the employer to pay to such person such sum as in the opinion of the court represents the difference between the amount which having regard to provisions of this Part ought properly to have been paid by way of wages during those years and the amount actually so paid.

Miscellaneous provisions with regard to legal proceedings

(2) Where it appears to the Commissioner that any sum is due by an employer to any person by reason of the fact that wages have been paid to him at less than the minimum wage applicable, and that it is not possible to recover the sum so appearing to be due or some part of that sum by means of proceedings under this section, the Commissioner may, if it appears expedient so to do by reason of the refusal or neglect of such person to take the necessary proceedings, on behalf of and in the name of such person institute civil proceedings before any court of competent jurisdiction for the recovery of the said sum.

30. Where an employer who is charged with an offence against this Part proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Part and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, he shall in the

Offence by agent

event of the conviction of that agent or other person for the offence be discharged in respect of the offence, without prejudice however to the power of the court under this Part to adjudge him to pay any sum which appears to the court to be due to the person employed on account of wages.

Employers
not to receive
premium
where
minimum
rates in force

31. (1) Where a person employed in any occupation being a person to whom a minimum wage applies, is an apprentice or learner, it shall not be lawful for his employer to receive directly or indirectly from him, or on his behalf, or on his account any payment by way of premium:

Provided that nothing in the foregoing provisions shall apply to any such payment duly made in pursuance of any instrument of apprenticeship executed within 3 months of the commencement of the employment.

(2) If an employer acts in contravention of the provisions of this section he shall be liable in respect of each offence to a fine of \$40, and the court may upon conviction in addition to imposing a fine adjudge him to repay to the person by whom the payment was made the sum improperly received by way of premium.

Prevention of
evasion

32. Any shopkeeper, dealer or trader who by way of trade makes any arrangement, express or implied, with any person in pursuance of which the person performs any work for which a minimum wage has been fixed, shall be deemed for the purpose of this Part to be the employer of such person, and the net remuneration obtainable by such person in respect of the work, after allowing for his necessary expenditure in connection with the work, shall be deemed to be wages.

Exemption

33. (1) The Commissioner may issue permits of exemption to infirm or disabled persons authorising the employment of such persons at less than the minimum wage fixed in respect of the occupation in which such persons are employed, and such permits may specify the conditions under which such persons may be so employed and the wage conditions specified in such permit shall, for the purposes of this Part, be deemed to be the minimum wage.

(2) Any minimum rate of wages may, with the written permit of the Commissioner, be subject to abatement by collective agreement; and thereupon during the continuance of such collective agreement the wage and conditions specified in such permit shall be deemed to be the minimum wage fixed in respect of the employed persons who are a party to such collective agreement.

(3) Save as in this section provided, any agreement for the payment of wages at less than the minimum rate fixed under this Part shall be void.

PART V

RECRUITING OF WORKERS

34. In this Part—

Interpretation

- “licence” means a licence issued under this Part;
- “licensee” means the holder of a licence issued under this Part;
- “professional recruiter” means a person who for remuneration recruits workers;
- “recruiting”, with its grammatical variations, includes all operations undertaken with the object of obtaining or supplying the labour of workers who do not spontaneously offer their services at the place of employment or at a public emigration or employment office, or at an office conducted by an employers’ organisation and supervised by the Commissioner and the noun “recruit” means a worker who has been recruited;
- “worker-recruiter” means a person who, being a worker, is authorised in writing by his employer to recruit workers on behalf of his employer, but who does not receive any remuneration or other advantages for such recruiting.

35. (1) The Commissioner may in his discretion issue licences to fit and proper persons to recruit workers.

Recruiting of workers to be under licence

(2) Save as in this section hereinafter provided it shall be an offence for any person to recruit workers except in accordance with the terms of a licence duly issued by the Commissioner under this Part.

(3) It shall be lawful for an employer, either in person or by some other person acting on his behalf other than a professional recruiter, to recruit workers without a licence where—

- (a) the employer does not employ more than 25 workers at any one time; or
- (b) the workers are to be employed within the island of recruitment or within 25 miles of the place of recruitment; or
- (c) the workers are to be employed on personal or domestic service or upon non-manual work.

36. In the exercise of his discretion to grant or refuse a licence under this Part the Commissioner shall take into consideration the possible effects of the withdrawal of adult males on the social

Matters to be considered before granting licence

life and organisation of the population and in particular shall consider—

- (a) the density of the population;
- (b) the possible effects of the withdrawal of adult males on the health, welfare and development of the population particularly in connection with the food supply;
- (c) the dangers to the family and morality generally arising from the withdrawal of adult males.

Restriction
on recruit-
ment

37. The Commissioner may by order prohibit or restrict the recruiting of workers in any area in the Gilbert Islands if he considers it expedient to do so in the interests of the inhabitants thereof; and any recruiting licence in force relating to such area shall be valid only so far as it does not conflict with such order.

Application
for recruiting
licence

38. Before issuing any licence the Commissioner—

- (a) may require the applicant to show to his satisfaction that adequate provision has been made for safeguarding the health and welfare of the workers to be recruited;
- (b) shall, if the workers to be recruited are intended to be employed beyond the Gilbert Islands, satisfy himself that all necessary measures have been taken for the protection of the recruits beyond the limits of the Islands;
- (c) may require the applicant to furnish financial or other security for proper conduct as a licensee;
- (d) may require the licensee, if an employer, to furnish financial or other security for the payment of wages due.

Conditions of
recruiting
licence

39. (1) A licence shall be subject to such conditions as the Commissioner may think necessary to impose and such conditions shall be endorsed upon the licence.

(2) Without prejudice to the generality of the provisions of the preceding subsection the Commissioner may impose conditions relating to all or any of the following matters—

- (a) the period during which and the places from which workers may be recruited;
- (b) the number of workers who may be recruited during a specified period or from a specified place;
- (c) the manner in which recruited workers shall be transported from their homes or from the place of engagement to the place of employment;
- (d) the vessel or vessels which may be used in transporting recruited workers;

- (e) the reports or returns to be made by recruiters;
 - (f) the maintenance and welfare of the recruits from the time of recruitment until the time their employment begins;
 - (g) the return of the workers to their homes upon conclusion of their employment.
- (3) The Commissioner may make it a condition of the licence that—
- (a) the recruits shall be grouped at the place of employment under suitable conditions;
 - (b) each recruit shall be issued with a document containing particulars of the identity of the recruit, the prospective conditions of employment, any advances of wages made to him and such other particulars as the Commissioner may require.

40. A recruiter's licence shall be valid for a period of 12 months from the date of issue and shall not be transferable and shall be produced on the demand of the Commissioner or a police officer.

Term of
licence

41. No professional recruiter shall be licensed unless he is recruiting for a department of the Government of the Gilbert Islands or for one or more specific employers or an organisation of employers, and produces to the Commissioner the written authorisation of such department of the Government of the Islands, or employer, or organisation of employers.

Professional
recruiters

42. The Commissioner may cancel any licence in any case where the licensee has been convicted of an offence against the provisions of this Ordinance or has not complied with the conditions under which it was granted, or is guilty of conduct which in the opinion of the Commissioner renders him no longer a fit and proper person to hold a licence; and the Commissioner may suspend any licence pending the making of any inquiry which he may consider necessary or where proceedings are taken against the licensee pending the decision of the court.

Cancellation
of licence

43. No person shall recruit a worker under the apparent age of 18:

Persons
under the age
of 18 not to
be recruited

Provided that the Commissioner may permit workers under that age, but of or above the age of 15 years, to be recruited with the consent of their parents or guardians for employment in the Gilbert Islands upon light work subject to such conditions as he may impose.

Provisions relating to the family of recruit

44. (1) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

(2) In default of an express agreement to the contrary there shall be implied in any agreement for a member of his family to accompany a recruit a condition that the said member may remain with him during the period of his contract.

Chiefs and public officers not to recruit or assist recruiting

45. (1) No chief or person holding any public office shall directly or indirectly procure or assist in procuring recruits or receive from any source whatsoever any consideration for so doing.

(2) No person shall give or promise to give a chief or public officer any consideration as an inducement to such chief or public officer to procure or assist in procuring recruits, or as a reward for having so procured or assisted in procuring recruits.

Licenses' assistants to obtain a permit

46. (1) No person shall assist a licensee in the recruiting of workers unless he has been approved by the Commissioner and has been furnished with a permit by the licensee.

(2) Licensees shall be responsible for the proper conduct of such assistants.

Remuneration of licenses' agents

47. A licensee who employs another licensee as his agent otherwise than on a fixed salary shall not remunerate the agent at the rate of more than \$4 per head of the workers recruited, or at such other rate as may be prescribed.

Licenses to keep records

48. Every licensee shall keep in such form as the Commissioner may require records of his recruiting operations.

Examination of recruits

49. (1) Workers recruited under licence shall, before their employment begins—

(a) be brought before the Commissioner; and

(b) be medically examined by a medical officer or, if such be not available, a person approved for that purpose by the Health Officer as near as may be convenient to the place of recruitment:

Provided that, where it has been impracticable for the worker to be medically examined before his employment begins, the Commissioner may authorise the departure prior to medical examination of a worker, if he considers that the worker is fit for the journey and the prospective employment, and if he is satisfied that the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.

(2) The Commissioner when any such recruit is so brought before him shall satisfy himself that the provisions of this Part, and of any regulations made thereunder, have been observed, and that the recruit has not been subjected to pressure or recruited by misrepresentation or mistake.

50. (1) The recruiter shall defray all expenses connected with the journey of the workers to the place of employment and shall ensure that whenever possible suitable transport is provided and in all cases adequate accommodation, food, water and medicines. Recruiter to defray expenses of journey, etc.

(2) In the event of the death of any recruited worker or of any dependant occurring during any journey to the place of employment from the place of recruitment the recruiter shall provide decent interment and pay the reasonable expenses of burial.

51. (1) A recruit who—

- (a) becomes incapacitated by sickness or accident during the journey to his place of employment; or
- (b) is found on medical examination to be unfit for employment; or
- (c) is not engaged after being recruited, for a reason for which he is not responsible; or
- (d) is found by the Commissioner to have been recruited by pressure or by misrepresentation or mistake,

Return to home of recruit and his family in certain circumstances

and the family of such recruit and the family of a recruit who dies during the journey to the place of employment shall be returned to their homes at the expense of the recruiter or employer who shall be jointly and severally liable for the same.

(2) Should a recruiter and employer fail to fulfil their obligations under this section the said obligations may be discharged by the Commissioner and the costs thereof met out of public moneys and recovered from the recruiter or employer as the case may be as a civil debt.

(3) A recruit who without reasonable excuse fails to avail himself of any proper and lawful facilities for repatriation afforded by a recruiter or employer shall forfeit his right to repatriation under this section.

52. (1) Any advance made to a recruit before he takes up his employment shall not exceed an agreed month's wages, and not more than one quarter of such advance shall be recovered out of each month's wages; and no advance made in excess of 1 month's wages shall be recoverable from the recruit. Advances against wages

(2) A worker-recruiter shall not make advances of wages to recruits.

Penalty

53. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Part, or who shall recruit any person by means of any fraud, falsehood, intimidation, coercion or misrepresentation, shall be liable to a fine of \$50.

PART VI

WRITTEN CONTRACTS OF EMPLOYMENT

Interpretation

54. In this Part, unless the contrary intention appears, the term "contract" means a contract which is required by section 55 to be made in writing.

Certain contracts to be in writing

55. (1) Save as provided in subsection (2) a contract of employment by which a worker enters the service of an employer as a manual worker for remuneration, and which—

- (a) is made for a period exceeding 1 month or for more than 30 working days; or
- (b) stipulates conditions of employment which differ materially from those customary in the district of employment for similar work,

shall be made in writing, and shall be signed by the parties in the presence of and be attested by the Commissioner.

(2) This section shall not apply—

- (a) except as provided by section 99, to contracts of apprenticeship made in accordance with Part X; or
- (b) to contracts under which the only or principal remuneration granted to the worker is the occupancy or use of land belonging to his employer.

(3) If a contract which is required to be made in writing and attested has not been made in writing and attested as required by this section, it shall be deemed to be a contract of employment from month to month determinable as provided by the provisions of section 3.

(4) If an omission to make any contract in writing or to have any contract attested, in breach of subsection (1), is due to the wilful act or negligence of the employer, the worker shall be entitled to apply to the Commissioner for the cancellation of such contract under section 64 and for an award of compensation and order by the Commissioner under the said section.

(5) Except as provided in section 61 (3), all the provisions of this Part relating to contracts shall apply to contracts providing for the re-engagement of workers:

Provided however that it shall be lawful for the Commissioner acting in his discretion to exempt any such contract from the provisions of section 59.

56. Every contract shall be in triplicate and shall contain in clear and unambiguous terms all that may be necessary to define the rights and obligations of the parties thereto and shall in all cases include the following particulars—

Form and particulars of contract

- (a) the name of the employer or group of employers and, where practicable, of the undertaking and the place of employment;
- (b) the name of the worker, the place of engagement and the place of origin of the worker, and any other particulars necessary for his identification;
- (c) where possible the names and addresses of the next of kin of the worker;
- (d) the nature of the employment;
- (e) the duration of the employment and the method of calculating this duration;
- (f) the appropriate period of notice to be given by the party wishing to terminate the contract due regard being had to the provisions of section 63 and to the fact that such provisions refer to an equitable settlement of monetary and other questions;
- (g) the rate of wages and method of calculation thereof, the manner and periodicity of payment of wages, the advances of wages, if any, and the manner of repayment of any such advances;
- (h) the measures to be taken to provide for the welfare of the worker and any dependant who may accompany him under the terms of the contract;
- (i) the conditions of any repatriation; and
- (j) any special conditions of the contract.

57. (1) Every contract shall be presented to the Commissioner for attestation, and before attesting any such contract the Commissioner shall—

Attestation of contracts

- (a) ascertain that the employee fully understood the terms of the contract before signing it, 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

(b) satisfy himself that—

- (i) the contract is in due legal form;
- (ii) the terms of the contract are in accordance with the requirements of this Ordinance and any other Ordinance for the time being in force;
- (iii) that the provisions of the law relating to medical examination have been complied with;
- (iv) that the terms of the contract are not manifestly unfair to the worker; and

(c) require the worker to declare himself not bound by any previous engagement.

(2) The Commissioner may refuse to attest any contract in respect of which he is not satisfied in regard to any of the matters set out in subsection (1) and any contract the Commissioner has refused to attest shall have no further validity.

(3) If the omission to make any contract in writing or present any contract to the Commissioner for attestation is due to the wilful act or the negligence of the employer, the worker shall be entitled to apply to the Commissioner for the cancellation of such contract under section 64 and for an award of compensation and order by the Commissioner under the said section.

(4) Any agreement not made in writing when required by this Part to be so made and any contract not attested in accordance with the provisions of this Part shall not be enforceable except during the period of 1 month from the making thereof but either party shall be entitled to have any such agreement drawn up in writing or any such contract presented for attestation, as the case may be, at any time prior to the expiry of the period for which it was made.

Disposal of
copies of con-
tract

58. When the contract has been attested the Commissioner shall deliver 1 copy to the employer, and 1 copy to the worker.

Medical
examination

59. (1) The employer shall cause every worker who enters into a contract to be medically examined by a medical officer or a person approved for that purpose by the Health Officer.

(2) Such examination shall be made and a medical certificate of fitness for the type of work upon which he is to be engaged issued before the attestation of the contract:

Provided that, where it has been impracticable to have the worker so medically examined before the attestation of the con-

tract, the attesting officer may dispense with the requirement but shall in such case endorse the contract to this effect, and the worker shall be so examined at the earliest possible opportunity thereafter.

(3) The Commissioner may exempt from the requirement of medical examination workers entering into contracts for—

- (a) employment in any agricultural undertaking not employing more than 25 workers; or
- (b) employment in the vicinity of the worker's home on work which is not of a dangerous character or likely to be injurious to the health of the workers.

60. Workers whose age is, or appears to the Commissioner to be, less than 18 years shall not be capable of entering into a contract.

Workers under 18 years may not enter into contract

61. (1) The maximum period of service which may be stipulated or implied in any contract involving a journey within the Gilbert Islands from the place of recruitment to the place of employment or a journey from a place of recruitment in the Islands to a place of employment in the Island of Nauru shall in no case exceed 12 months if the worker is not accompanied by his family or 2 years if he is so accompanied.

Maximum duration of contracts

(2) The maximum period of service which may be stipulated or implied in any contract involving a journey from a place of recruitment in the Islands to a place of employment (not being in the Island of Nauru) outside the Islands shall in no case exceed 2 years if the worker is not accompanied by his family or 3 years if the worker is accompanied by his family:

Provided that this subsection shall apply to any contract involving a journey to any place of employment in that part of the Islands known as the Line Islands District from a place of recruitment in any other part of the Islands as if it were a contract involving a journey outside the Islands.

(3) The maximum period of service which may be stipulated or implied in any contract providing for the re-engagement of any worker upon the expiration of any contract made by him shall not, in any case in which the lastmentioned contract is one to which subsection (1) applies, exceed 21 months if the worker is accompanied by his family or 12 months if he is not, or, in any case in which such lastmentioned contract is one to which subsection (2) applies, exceed 33 months if such worker is accompanied by his family or 21 months if he is not:

Provided however that if service for the period stipulated or implied in a contract for the re-engagement of any worker upon the expiration of a contract, together with the period served under such lastmentioned contract at the time of its expiration, will involve the separation of such worker from his family for any period in excess of 18 months, such worker shall not begin service under the contract providing for his re-engagement until he has had the opportunity to return to his home at his employer's expense:

Provided further that the Commissioner may grant an exemption from the provisions of this section when he considers its application impracticable or undesirable.

(4) The Commissioner may after consultation with any employers' and workers' organisations representative of the interests concerned, exclude from the application of this section contracts entered into between employers and literate workers whose freedom of choice in employment is satisfactorily safeguarded; such exclusion may apply generally, or to workers in any specified industry or undertaking or to special groups of workers.

Transfer to
other emp-
loyment

62. (1) The transfer of any contract from one employer to another shall be subject to the consent of the worker and the endorsement of the transfer upon the contract by the Commissioner.

(2) Before endorsing the transfer upon the contract the Commissioner—

- (a) shall ascertain that the worker has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as a result of misrepresentation or mistake; and
- (b) in any case in which by such transfer the worker—
 - (i) will change his form of employment from one which is the subject of an exemption made under the provisions of section 59 (3); or
 - (ii) will be subject to such change in conditions as in the opinion of the Commissioner renders such a course advisable;

may require the worker to be medically examined or re-examined as the case may be by a medical officer or other person approved for that purpose by the Health Officer.

General ter-
mination of
contract

63. (1) A contract shall be terminated—

- (a) by the expiry of the period for which it was made; or

(b) by the death of the employer or worker before the expiry of the term for which it was made.

(2) The termination of a contract by the death of the worker shall be without prejudice to the lawful claims of any person entitled to claim through or under him.

(3) If the employer is unable to fulfil a contract or if owing to sickness or accident the worker is unable to fulfil the contract, the contract may be terminated with the consent of the Commissioner subject to conditions safeguarding the right of the worker to wages earned, any deferred pay due to him, any compensation due to him in respect of accident or disease, and his right to repatriation.

(4) A contract may be terminated by agreement between the parties with the consent of the Commissioner subject to conditions safeguarding the worker from the loss of his right to repatriation unless the agreement for the termination of the contract otherwise provides and to the Commissioner being satisfied—

(a) that the worker has freely consented to the termination and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and

(b) that all monetary liabilities between the parties have been settled.

(5) A contract other than a contract to perform some specific work without reference to time, may be terminated by either party giving to the other notice of such termination in accordance with the terms of the contract, the minimum requirements of which shall be—

(a) where the duration is for more than 1 month the period of notice shall be not less than 14 days and may be given only after the expiry of the first month of employment, or

(b) where the duration is for 1 month or less the period of notice shall be not less than 7 days:

Provided that an equitable settlement of monetary and other conditions including the question of repatriation shall be agreed upon between the worker and the employer, and in default of such agreement either party may refer the matter to the Commissioner who shall make such order, including the award of any subsistence expenses reasonably incurred pending such order, as may be just and equitable.

64. (1) A contract may be cancelled by an order of the Commissioner if the worker is subject to ill-usage in person or prop-

Cancellation
of contract by
Commissioner

erty or if in pursuance of the provisions of this Ordinance the worker applies to the Commissioner so to do and in such event the Commissioner may award the worker reasonable compensation and order it to be paid by the employer.

(2) It shall be a defence to any charge of failing to comply with an order for the payment of compensation under this section that the amount of such compensation was unreasonable but the onus of establishing such unreasonableness shall be upon the defendant in the proceedings.

Dismissal by
the employer
without
notice

65. An employer shall not dismiss a worker employed by him without notice except in the following circumstances—

- (a) where the worker is guilty of misconduct, whether in the course of his duties or not, inconsistent with the fulfilment of the express or implied conditions of his agreement;
- (b) for wilful disobedience to lawful orders given by the employer;
- (c) for lack of the skill which the worker expressly or implicitly warrants himself to possess;
- (d) for habitual or substantial neglect of his duties;
- (e) for absence from work without leave from the employer or absence without other reasonable cause.

Contracts for
service out-
side the Gil-
bert Islands

66. Where any contract made in the Gilbert Islands relates to employment in any place outside the Islands—

- (a) the attestation of the contract required by section 55 shall take place before the Commissioner before the worker leaves the Islands;
- (b) the medical examination required by section 59 shall take place at the latest at the place of departure of the worker from the Islands;
- (c) a person whose apparent age is less than either the minimum age prescribed in section 60 or the minimum age of capacity for entering into a contract allowed by the law of the place of employment if such minimum age is higher than that prescribed in section 60 shall not be capable of entering into a contract;
- (d) the contract shall contain a provision that it is not transferable unless such transfer is endorsed on the contract by a public officer of the place of employment;
- (e) the duration stipulated in the contract shall not exceed either the maximum period prescribed in section 61 or the maximum period prescribed by the law of the place of employment whichever is less;

- (f) if the laws of the place of employment are substantially the same as this Part the conditions under which the contract is subject to termination and any question of exemption from liability for repatriation shall be determined by the law of the place of employment;
- (g) if the laws of the place of employment differ from the laws of the Islands in respect to repatriation the Commissioner may require such deposit or security from the employer as he deems necessary and such deposit or security may be used to defray the costs of repatriation at the discretion of the Commissioner;
- (h) the Commissioner shall co-operate with the appropriate authority of the place of employment to ensure the application of the provisions of section 71 (2);
- (i) the Commissioner may require the employer to deposit cash or enter into a bond as security for the cost of repatriation of the worker.

67. When a contract made in any place outside the Gilbert Islands (in this section referred to as the place of origin) relates to employment in the Islands—

Extraterritorial
contracts for
employment
in the Gilbert
Islands

- (a) If such place of origin has enacted laws substantially the same as this Part and the parties to the contract have complied with all the provisions of such laws prior to the worker leaving such place of origin, then—
 - (i) the endorsement of a transfer on a contract shall be made by the Commissioner as provided in section 62;
 - (ii) the conditions under which the contract is subject to termination shall be determined by the provisions of this Ordinance;
 - (iii) if the employer fails to fulfil his obligations in respect of repatriation the said obligations may be discharged by the Commissioner as provided in section 69 and such expenses may be recovered from the employer as a debt due to the Government;
 - (iv) the authority which may exempt the employer from liability for repatriation expenses and exercise any other powers conferred upon a competent authority in the place of origin shall be the Commissioner;
 - (v) the Commissioner shall co-operate with the appropriate authority of the place of origin to ensure the application of the provisions of section 71 (2).

- (b) If such place has not enacted laws substantially the same as this Part or if it has enacted such laws and any party to the contract has not fully complied with any provisions thereof in respect of such contract then the whole of the provisions of this Part or such portion thereof as has not been complied with shall be complied with immediately upon the arrival of the worker in the Islands and thereafter the provisions of this Part shall be deemed to apply *mutatis mutandis* as if such contract had been entered into in the Islands.

Employment
of immigrant
workers

68. No person shall knowingly employ any immigrant worker unless he has obtained a licence from the Commissioner to do so in such form and subject to such conditions as may be prescribed:

Provided that, for the purposes of this section, if an immigrant worker has terminated his contract in accordance with the provisions of section 63 he shall not be regarded as an immigrant worker.

Rights and
obligations of
worker and
employer in
respect of
repatriation

69. (1) Every worker who is a party to a contract under this Ordinance and who has been brought to the place of employment by an 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 origin or to the place of engagement, if the latter be nearer to the place of employment and the laws of the place of engagement permit, in the following cases—

- (a) on the termination of the contract by expiry of the period for which it was made;
- (b) on the termination of the contract by reason of the inability of the employer to fulfil the contract;
- (c) on the termination of the contract by reason of inability of the worker to fulfil the contract owing to sickness or accident;
- (d) on the termination of the contract by notice subject to the provisions of the particular contract and Part VI of this Ordinance;
- (e) on the cancellation of the contract under section 64;
- (f) on the termination of the contract by agreement between the parties, unless the Commissioner otherwise decides.

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

(3) The expenses of repatriation shall include—

- (a) travelling and subsistence expenses during the journey; and
- (b) subsistence expenses during the period, if any, between the date of termination of the agreement or contract and the date of repatriation; and
- (c) provision of decent interment and the payment of the reasonable expenses of burial in the event of death of a worker occurring during the course of, or pending, repatriation.

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

- (a) by the worker's own choice; or
- (b) for the reasons of *force majeure* unless the employer has been able during the said period to use the services of the worker at the rate of wages stipulated in the expired contract.

(5) Every immigrant worker who is ordered to leave the Gilbert Islands in accordance with the provisions of any law for the time being in force in the Islands shall be repatriated at the expense of the employer to his place of origin or to the place of engagement, if the latter be nearer to the place of employment and the laws of the place of engagement permit.

(6) If the employer fails to fulfil his obligation in respect of repatriation the said obligation shall be discharged by or under directions of the Commissioner and any sum so expended may be recovered from the employer or employers by civil suit as a debt due to the Government.

70. The Commissioner may exempt the employer from liability for repatriation expenses in the following cases—

Exemption
from obligation
to repatriate

- (a) when the Commissioner is satisfied—
 - (i) that the worker by a declaration before the Commissioner has signified that he does not wish to exercise his right to repatriation; and
 - (ii) that the worker has been settled at his request or with his consent at or near the place of employment;
- (b) when the Commissioner is satisfied that the worker by his own choice has failed to exercise his right of repatriation before the expiry of 30 days from the date of termination of the agreement or contract;

- (c) when the liability of the employer has been provided for under any of the provisions of any fund established under the provisions of this Ordinance or any regulation thereunder;
- (d) when the agreement or contract has been terminated otherwise than by reason of the inability of the worker to fulfil the agreement or contract owing to sickness or accident and the Commissioner is satisfied—
 - (i) that in fixing the rates of wages proper allowance has been made for the payment of repatriation expenses by the worker; and
 - (ii) that suitable arrangements have been made by means of a system of deferred pay or otherwise to ensure that the worker has funds necessary for the payment of such expenses.

Employer to
provide
transport

71. (1) The employer shall whenever possible provide transport for workers who are being repatriated.

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

- (a) that all vehicles or vessels used for transport of workers are suitable for such transport, are in good sanitary condition and are not overcrowded;
- (b) that when it is necessary to break the journey for the night suitable accommodation is provided for the workers;
- (c) that when the workers have to make long journeys on foot the length of the daily journey is compatible with the maintenance of their health and strength; and
- (d) that in the case of long journeys suitable arrangements are made for medical assistance and for the welfare of the workers.

(3) When the workers have to make long journeys in groups they shall be conveyed by a responsible person to be approved by the Commissioner.

Summaries of
law

72. The Commissioner may cause to be printed in English or in any appropriate language concise summaries of the provisions of this Part relating to contracts, and every employer upon being directed so to do by the Commissioner and upon being furnished by him with the aforesaid summaries shall exhibit the same in such manner as the Commissioner may require.

73. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Part, or an order made by the Commissioner pursuant thereto, shall be liable to a fine of \$100, and may, where the offence is under section 64, be further ordered to pay such compensation as the Commissioner has awarded under that section, which compensation shall be recovered as a fine. Penalty

PART VII

FORCED LABOUR

74. In this Part—

Interpretation

“forced or compulsory labour” means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily, but does not mean—

(a) any work or service exacted from any person as a consequence of a conviction in a court of law:

Provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired or placed at the disposal of private individuals, companies, or associations;

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

(c) unpaid labour on minor communal works lawfully required by a local government council.

75. Any person who exacts, procures or employs forced or compulsory labour is guilty of an offence and shall be liable to a fine of \$100. Prohibition of forced labour

PART VIII

EMPLOYMENT OF WOMEN

Interpretation

76. For the purposes of this Part—

“night” means the interval between 6 o'clock in the evening and 6 o'clock the next morning;

“women” includes all persons of the female sex.

Prohibition of employment of women at night

77. Women shall not be employed during the night in any undertaking, except where the night work—

- (a) has to do with raw materials or materials in course of treatment which are subject to rapid deterioration; or
- (b) is necessitated by an emergency which it was impossible to foresee and which is not of a recurring character; or
- (c) is that of a responsible position of management held by a woman who is not ordinarily engaged in manual work; or
- (d) is that of nursing and of caring for the sick, or other health or welfare work; or
- (e) is carried on in a cinematograph or other theatre while such theatre is open to the public; or
- (f) is carried on in connection with a hotel or guest house, or with a bar, restaurant or club; or
- (g) is carried on by a registered pharmacist; or
- (h) is not prohibited by an international convention applying to the Gilbert Islands and is specifically declared by the Minister by order to be work upon which women may so be employed.

Suspension of prohibition

78. The Minister may by order from time to time suspend the prohibition of the employment of women during the night when in case of serious emergency the public interest so demands.

Prohibition of employment of women in mines

79. (1) No woman shall be employed on underground work in any mine:

Provided that this subsection shall not apply—

- (a) to women holding positions of management who do not perform manual work; or
- (b) to women employed in health or welfare services.

(2) In this section the expression “mine” shall include any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth.

80. (1) Notwithstanding any agreement to the contrary express or implied, an employer shall allow a woman employee to leave her work upon production by her of a medical certificate given by a medical practitioner stating that her confinement will probably take place within 6 weeks, and shall not permit her to work during the 6 weeks following her confinement.

Women employed to be permitted to be absent from work in certain circumstances

(2) While absent from her work in pursuance of the provisions of subsection (1) a woman employee shall be entitled to be paid not less than 25 per cent of the wages she would have earned had she not been so absent.

(3) An employer shall allow a woman employee who is nursing a child half an hour twice a day during her working hours for this purpose.

81. No employer shall give notice of dismissal to a woman employee who is absent in pursuance of the provisions of section 80, or who remains absent as a result of illness certified by a medical practitioner to arise out of pregnancy or confinement and rendering her unfit for work until such absence has exceeded in all a period of 12 weeks.

Restriction on dismissal of woman employee

82. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Part commits an offence and shall be liable to a fine of \$50.

Penalty

PART IX

EMPLOYMENT OF CHILDREN AND OTHER YOUNG PERSONS

83. (1) For the purposes of this Part—
 “night” has the same meaning as in Part VIII; and
 “ship” means any sea-going vessel or boat whatsoever (other than a ship of war) engaged in maritime navigation, whether privately or publicly owned.

Interpretation

(2) The Minister for the purposes of this Part may by notice exclude from the definition of “industrial undertaking”—

- (a) processes conducted for the preservation and despatch of the agricultural products of any particular undertaking or class of undertaking; and
- (b) undertakings in respect of which, from their nature and size, adequate supervision may be impracticable.

Employment
of children
under 14 for-
bidden

84. A child under the age of 14 shall not be employed.

Employment
of persons
under 15

85. (1) A person under the age of 15 shall not be employed or work—

- (a) in any industrial undertaking, or in any branch thereof except in employment approved by the Minister; or
- (b) on any ship.

(2) Nothing contained in the preceding subsection shall prevent the employment of a person under the age of 15 years upon work upon a school-ship or a training-ship when such work is approved and supervised by a public authority.

Employment
underground
of male per-
sons under 16

86. A male person under the age of 16 shall not be employed underground in any mine.

Employment
of persons
under 18

87. A male person under the age of 18 shall not be employed or work—

- (a) underground in any mine unless he has attained the age of 16 and produces a medical certificate of a medical practitioner or a person approved for that purpose by the Health Officer attesting his fitness for such work;
- (b) on any ship as a trimmer or stoker:

Provided that a male person between the ages of 16 and 18 may be employed on a ship mainly propelled by means other than steam or as a trimmer or stoker on a ship exclusively engaged in the coastal trade if he is certified by a medical practitioner to be physically fit for such work;

- (c) on any kind of work on a ship unless certified by a medical practitioner to be fit for such work:

Provided that in urgent cases the Commissioner may permit the embarkation of a male person under the age of 18 without prior medical examination, and in such case the employer shall at his own expense have such person medically examined by a medical practitioner at the first place of call at which there is a medical practitioner, and should such practitioner not attest such person as fit for the work, the employer shall at his own expense return such person as a passenger to the port or place where he was engaged, or to his home, whichever is the nearer; or

- (d) during the night in any industrial undertaking:

Provided that a male person over the age of 16 may be so employed with the permission in writing of the Commissioner.

88. Every employer in an industrial undertaking and every master of a ship shall keep a register of all persons under the age of 18 years employed in such undertaking or on such ship, and shall enter therein the names of such employed persons, the dates of their birth and the dates when their employment begins and ceases; and such register shall at all reasonable times be open to inspection by the Commissioner or other officer authorised by him.

Register of
young per-
sons

89. (1) If in the case of proceedings in respect of an offence under the provisions of this Part it is alleged by the person conducting the prosecution that the person in respect of whom the offence was committed was under the age of 18, 16, 15 or 14, as the case may be, at the date of the commission of the alleged offence the court shall, after such inquiry as it may think necessary and after hearing any evidence that may be tendered by either party to the proceedings determine the age of the said person and such determination shall be final.

Presumption
of age

(2) It shall be a sufficient defence to any charge against an employer or master of a ship for contravening or failing to comply with any provision of this Part if it shall be made to appear to the court before which the charge is brought that the person so charged had reasonable cause to believe that the child or other young person employed was of an age at which the child or other young person could be employed without contravening this Part.

90. Any person who acts in contravention of, or fails to comply with, any of the provisions of this Part, shall be liable to a fine of \$50.

Penalty

PART X

APPRENTICES

91. In this Part—
“guardian” includes any person lawfully having charge of a person under the age of 16.

Interpretation

92. The parent or guardian of a person above the age of 14 years and under the age of 16 years may, with the consent of such person, apprentice him to an employer to train him or have him trained systematically for a trade or employment in which art or skill is required, for any term not exceeding 5 years.

Contracts of
apprenticeship
of person
over 14 and
under 16

The Commissioner may appoint person to execute contract of apprenticeship

93. Whenever any person above the age of 14 years and under the age of 16 years is without known parents or guardian, the Commissioner may, with the consent of such person, appoint some fit and proper person to execute a contract of apprenticeship on his behalf.

Contracts of apprenticeship of persons over 16 years

94. Any person of the age of 16 years or upwards, not being under any contract of apprenticeship may apprentice himself for any term not exceeding 5 years to any trade or employment in which art or skill is required.

Assignment of contracts of apprenticeship

95. A contract of apprenticeship may, with the consent of the parties endorsed thereon and with the permission of the Commissioner, be assigned.

Attestation of contract of apprenticeship

96. A contract of apprenticeship shall not be valid unless it is in writing and is approved and attested by the Commissioner.

Duties of Commissioner on attesting contract of apprenticeship

97. Before attesting any contract of apprenticeship the Commissioner shall satisfy himself—

- (a) that the apprentice has freely consented to the contract;
- (b) that the apprentice has been medically examined and certified by a medical practitioner to be physically and mentally fit to be employed and trained in the trade or employment specified in the contract;
- (c) that both parties to the contract have fully understood the terms of the contract;
- (d) that provision has been made in the contract as to how the apprentice's remuneration is to be determined, and as to the scale of increments, if any;
- (e) that provision has been made for payment of such remuneration during illness and holidays, if any;
- (f) that in any case where the apprentice is unable to return to his home at the conclusion of each day, the contract contains adequate provision to ensure that the apprentice is supplied with food, clothing, accommodation and medical attention; and
- (g) that the terms of the contract are in accordance with the provisions of this Ordinance.

Retention of apprentices after expiry of contract

98. If any person retains an apprentice in his service after the stipulated period of service has expired without making any agreement for the payment of wages, the apprentice shall be entitled to recover from such person wages at the current rate payable for service similar to that performed by such apprentice.

99. The provisions of section 63 of this Ordinance relating to the powers of the Commissioner in connection with the termination of contracts shall apply to contracts of apprenticeship.

Powers of
Commissioner

100. The Commissioner may by writing under his hand exempt from the provisions of this Part contracts of apprenticeship made or to be made by any employer who satisfies him that the terms and conditions of such contracts are not less favourable to the apprentice than those provided for by this Part.

Exemption
of employer
from provi-
sions of this
Part

101. An exemption made under the provisions of the preceding section may at any time be revoked by the Commissioner.

Cancellation
of exemption

PART XI

CARE OF WORKERS

102. In this Part the expression "dependant" means any person dependent upon the worker who is living with him at the place of employment in pursuance of an agreement between the parties to the contract of employment.

Interpretation

103. An employer shall, if required by the Commissioner, or may by agreement with the worker, provide a worker with rations on the prescribed scale:

Rations

Provided that where rations are provided by the employer, the Commissioner shall, notwithstanding the provisions of sections 16, 17 and 18, prescribe the cash equivalent of the rations which may be deducted from the wages.

104. Every employer shall provide a sufficient and proper supply of water for workers and their dependants.

Water

105. Every employer shall make or cause to be made sufficient and proper sanitary arrangements for workers and their dependants.

Sanitary
arrangements

106. Every employer shall cause every worker who cannot return to his home at the conclusion of his daily work and his dependants to be properly and adequately housed.

Housing

107. (1) At every place of employment the employer shall provide for all workers such medical attention and treatment with medicines of good quality, first-aid equipment and appliances for the transportation of sick or injured workers as may be required by the Commissioner or Health Officer.

Medical care
and treat-
ment

(2) Every employer shall take, or cause to be taken, for treatment with as little delay as possible every worker injured or falling ill during the course of his employment and every resident worker and resident dependant on a place of employment requiring medical attention at a hospital or dispensary to the hospital or dispensary maintained for the workers at such place of employment, or, if there is no such hospital or dispensary, to the nearest hospital or dispensary maintained by the Government or approved by the Commissioner or the Health Officer and shall also provide any transport necessary therefor.

(3) The cost of maintenance and treatment in hospital of a worker and his dependants residing on the place of employment shall be borne or paid by the employer as long as the worker remains in his employment.

Hospital
maintained
by employers

108. (1) Any employer may be required in writing by the Commissioner or Health Officer, having regard to the situation of any place of employment and the number of workers employed and resident thereon, at his own expense to provide and maintain—

- (a) a room properly equipped as a sickroom with accommodation for not less than 10 per cent of his workers; or
- (b) a separate building properly equipped as a hospital with accommodation for not less than 10 per cent of his workers; and
- (c) the services of a medical practitioner or such other person as may be approved by the Health Officer.

(2) Every employer who is required by the provisions of subsection (1) to maintain a sickroom or hospital shall keep a register of all patients admitted thereto and shall produce it for inspection on demand of the Commissioner or the Health Officer.

Directions in
regard to
housing and
sanitation

109. Every employer shall observe all reasonable directions given to him by the Commissioner or Health Officer in regard to the housing of workers and the sanitation of the buildings and provision of medical facilities and attendance.

Reporting of
deaths

110. An employer shall forthwith report the death of a person in his employment to the Commissioner and such report shall whenever possible be accompanied by a medical certificate stating the cause of death.

Conveying of
workers by
sea

111. A master or other person in charge of any vessel in which any worker is conveyed from his place of engagement for employment or recruitment, to the place of employment, or from such

place of employment to his home upon repatriation, other than a vessel in respect of which a valid and unexpired certificate of seaworthiness under the Shipping Ordinance is in force and which is provided with sufficient duly certificated officers in accordance with the provisions of that Ordinance, shall be guilty of an offence. Cap. 93

112. Any person who contravenes or fails to comply with any provisions of this Part shall be liable to a fine of \$100 and to imprisonment for 6 months. Penalty

PART XII

GENERAL

113. This Ordinance shall bind the Crown save and except that nothing in this Ordinance contained shall apply or be construed to apply to or in relation to the following persons— Application to Crown

- (a) persons in the naval, military or air services of the Crown (other than locally engaged civilian employees); and
- (b) police officers.

114. In the distribution of the property of a bankrupt upon his bankruptcy, and in the distribution of the assets of any body corporate upon its winding up, there shall be paid in priority to all other debts all wages of any worker in respect of services rendered— Priority for wages among debts of bankrupt or body corporate being wound up

- (a) to the bankrupt within 2 months before the date of the order declaring him bankrupt, or
- (b) to the body corporate within 2 months of the resolution or order winding it up or the appointment of a provisional liquidator,

as the case may be.

115. The Commissioner may institute and conduct the prosecution in any proceedings for an offence against the provisions of this Ordinance. Criminal proceedings

116. In any civil proceedings between an employer and a worker in his employment the Commissioner may appear on behalf of the worker. Civil proceedings

Court fees

117. No fees of court shall be charged in any proceedings whether civil or criminal arising out of the provisions of this Ordinance.

Power to exempt persons from provisions of this Ordinance

118. The Minister may by order exempt any person or class or group of persons from all or any of the provisions of this Ordinance.

PART XIII

REGULATIONS

Minister may make regulations

119. (1) The Minister may make regulations generally for the better carrying out of the provisions of this Ordinance and, without derogation from the generality of the foregoing, for all or any of the following purposes—

- (a) the appointment and regulation of advisory boards to advise on labour matters generally and in particular to advise on fair minimum rates of wages and size of tasks;
- (b) prescribing registers of wage payments to be kept by employers, requiring the issue to workers of statements of wage payments, prescribing the intervals at which wage payments shall be made and generally to ensure the proper payment of all wages earned;
- (c) prescribing the maximum size of tasks;
- (d) prescribing the areas within which worker-recruiters, as defined in Part V, may recruit and the manner in which the operations of such worker-recruiters shall be supervised;
- (e) the establishment of a fund or other method to make provision for securing the expenses of recruitment, transport or repatriation of workers upon such terms and conditions and subject to such control as he deems necessary, and for the administration of such a fund;
- (f) prescribing conditions under which women may be employed during the night in cases where such employment is permitted by this Ordinance, and providing for the health and safety of women employed;
- (g) restricting or prohibiting the employment of women in any specified class of undertaking;
- (h) providing generally for the protection of workers and for the protection of employed children and other employed young persons under the age of 18;

- (i) in the case of unhealthy, dangerous or onerous work, prescribing higher minimum ages than those specified in sections 84 and 85;
- (j) prescribing the form of contracts of apprenticeship and the terms and conditions upon which such contracts may be lawfully entered into, and the rights and obligations of apprentices and their masters;
- (k) the registration of contracts of apprenticeship;
- (l) the number of apprentices who may be apprenticed during a specified period in any specified trade or employment;
- (m) forbidding the taking of apprentices by persons not possessing specified qualifications;
- (n) the provision, by such means as he may deem expedient, of adequate supervision over the employment and training of apprentices;
- (o) the holding of examinations of apprentices and the issue of certificates based on the results thereof;
- (p) prescribing scales for rations where such are provided by the employer under the provisions of section 103;
- (q) prescribing minimum standards of housing, furniture, sanitation and water supply for workers;
- (r) prescribing scales of medicines and sick room and hospital equipment;
- (s) prescribing records to be kept by employers and forms to be used for the purposes of this Ordinance;
- (t) making provision for persons employed in undertakings generally, or in a particular undertaking, to be entitled to holidays with or without pay;
- (u) prescribing any fee, rate, matter or thing which is required, or appears to be expedient, to be prescribed under or in connection with this Ordinance and to provide for the remission of fees;
- (v) providing for the protection of persons, as regards their health and safety, against exposure to ionizing radiations in the course of their work;
- (w) providing for indemnification of seamen against unemployment resulting from the loss or foundering of any vessel on which they have contracted for service.

(2) Regulations made under this Ordinance may provide for the imposition of a penalty for a breach thereof, not exceeding a fine of \$40 or imprisonment for 3 months, or to both such fine and such imprisonment.

PART XIV

SAVING

Saving

120. All contracts entered into between any employer and any worker valid and in force on 22nd April 1966 shall continue to be in force after such date and, subject to the express provisions contained in any such contract, the parties thereto shall be subject to and entitled to the benefits of this Ordinance.

[Subsidiary]

SUBSIDIARY LEGISLATION

Appointment of officers under section 4 (1)L.N. 62/68
G.N. 73/68

The administrative officers in charge of districts are appointed Deputy Commissioners of Labour for their respective districts to perform all the duties imposed and exercise all the powers conferred on the Commissioner of Labour by the Ordinance.

12/79
K.L.N. 2/76

The Deputy Secretary to the Chief Minister ^{of Trade, Industry & Labour} ~~(Internal and Labour)~~ is appointed Commissioner of Labour.

Exemption from provisions of the Ordinance by order under section 118

L.N. 27/67

EMPLOYMENT (MISCELLANEOUS EXEMPTIONS) ORDER

Citation

1. This Order may be cited as the Employment (Miscellaneous Exemptions) Order.

Exemption of certain workers and employers from the provisions of section 9

2. Any worker who is entitled to receive for work done by him under any contract or contracts of employment any money, or other consideration, the rate of which exceeds in amount or value, or both, \$800 per annum is hereby exempted from the provisions of section 9 and any employer of any such worker is, in relation to such worker, also hereby exempted from the said provisions.

Regulations under section 119 (1)

- (1) Employment (Ionizing Radiations) (Protection of Workers) Regulations
- (2) Employment (Return) Regulations
- (3) Employment Ordinance (Fees) Regulations
- (4) Employment (Housing Standards) Regulations
- (5) Employment (Fair Wages Clauses in Public Contracts) Regulations

L.N. 48/66

**(1) EMPLOYMENT (IONIZING RADIATIONS)
(PROTECTION OF WORKERS) REGULATIONS**

Citation

1. These Regulations may be cited as the Employment (Ionizing Radiations) (Protection of Workers) Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—
 "Authority" means the person for the time being performing the duties of the Secretary;
 "ionizing radiations" means electromagnetic radiation (that is to say, X-ray or gamma ray protons or quanta) or corpuscular radiation (that is to say, alpha particles, beta particles, electrons, positrons, protons, neutrons, or heavy particles) being electromagnetic radiation or corpuscular radiation capable

[Subsidiary]

of producing ions and emitted from a machine or apparatus which is intended to produce ionizing radiations, or from a machine or apparatus in which electrons are accelerated by a voltage of not less than 5 kilovolts; "proprietor" in relation to an undertaking, includes any person for the time being having the management or capital, or receiving the profits, of the business carried on in such undertaking, or employing any person engaged in such business.

3. Every proprietor of an undertaking shall before commencing therein any work involving the possible exposure to ionizing radiations in the course of his work of any person employed or engaged in such work shall give to the Authority not less than 1 month's notice in writing of the date of the intended commencement of such work, and shall furnish to the Authority such particulars as the Authority may require.

Notification of commencement of work involving exposure to radiation

4. Without prejudice to the operation of regulation 3, any person who proposes to install, or cause to be installed, on any premises used for the purposes of an undertaking, for use in such undertaking, any machine or apparatus which is capable of producing or emitting ionizing radiations shall give to the Authority not less than 1 month's notice in writing of the proposed date of the installations.

Notification of date of installation of machines or apparatus producing radiation

5. Any person who contravenes any of the provisions of regulation 3 or regulation 4 shall be liable to a fine of \$100 and to imprisonment for 6 months.

Offences

(2) EMPLOYMENT (RETURN) REGULATIONS

L.N. 38/69

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

Citation

2. (1) On or before the 30th April of each year every employer of 5 or more workers shall furnish to the Commissioner of Labour a return of such workers as were in his employ on the 1st April of that year, which return shall be complete and accurate in every particular and shall be in the form prescribed in the Schedule.

When return of employees to be made and penalty

(2) Any employer who contravenes paragraph (1) shall be guilty of an offence and shall be liable to a fine of \$200 and to imprisonment for a term of 6 months.

3. Any person required to furnish a return under regulation 2 (1) may post such return by registered post addressed to the Commissioner of Labour at Tarawa, and for the purpose of these Regulations the time at which any such return is so posted shall be deemed to be the time at which such return is furnished.

Return may be sent by post

SCHEDULE

Confidential

EMPLOYMENT RETURN FORM

(Regulation 2)

To: All Employers.

You are required to furnish this return to the Commissioner of Labour, Bairiki, Tarawa, under the terms of the Employment (Return) Regulations. The

[Subsidiary]

Please show the number of your workers in the following categories and their maximum and minimum wages per month.

	Occupation	Gilbertese		Non-Gilbertese		Wages per Month	
		Males	Females	Males	Females	Max.	Min.
0	Professional and Technical (Doctors, Engineers, Graduate teachers, Architects, Surveyors, etc.)						
04	Nurses and midwives (including trainees)						
06	Teachers (excluding graduates)						
071	Clergy, sisters and religious workers						
1	Administrative, Executive and Managerial						
2/3	Clerical and Stores (Secretaries, typists, bookkeepers, clerks, storekeepers)						
6	Transport— (i) Bosuns and Marine engineers (ii) Other seamen (iii) Drivers, light vehicles (iv) Drivers, heavy vehicles (v) Heavy plant operators (vi) Light plant operators (vii) Other communications workers						
7/8	Skilled and semi-skilled workers— (i) Carpenters and joiners (ii) Bricklayers and masons (iii) Plumbers (iv) Electricians and line men (v) Mechanics (vi) Other tradesmen (specify)						
85	Junior supervisors and overseers						
89	Unskilled workers (labourers, messengers, etc.)						
9	Service trades (waiters, cooks, watchmen, etc.)						
	Please give below details of all categories not mentioned above but who are employed by you						

[Subsidiary]

Please show the Island of Origin of all your Gilbertese workers below.

For Office Use	Island of Origin	Male	Female	Juveniles	Total
	Makin				
	Butaritari				
	Marakei				
	Abaiang				
	Maiana				
	Kuria				
	Aranuka				
	Abemama				
	Nonouti				
	Tabiteuea				
	Beru				
	Nikunau				
	Onotoa				
	Tamana				
	Arorae				

L.N. 45/69

(3) EMPLOYMENT ORDINANCE (FEES) REGULATIONS

Citation

1. These Regulations may be cited as the Employment Ordinance (Fees) Regulations.

Fees

2. The fees specified in column 2 of the Table hereunder shall be payable to the Commissioner by the recruiter or employer, as the case may be, in respect of the matters specified in column 1 of the said Table.

TABLE

Column 1	Column 2
	Fees
	\$ c.
Medical examination of a worker under section 49 or 59	1 00
Attestation of a contract under section 55	1 00
Licence to employ an immigrant worker under section 68	5 00

(4) EMPLOYMENT (HOUSING STANDARDS) REGULATIONS

[Subsidiary]

L.N. 26/67

L.N. 41/69

Citation

1. These Regulations may be cited as the Employment (Housing Standards) Regulations.

2. (1) In these Regulations, unless the context otherwise requires—

“building” includes unit;

“single worker” means a worker not accompanied by his wife or family;

“unit” means any self-contained and separate dwelling;

Interpretation
and
classification
of housing for
workers

Provided that a dwelling shall not cease to be self-contained for purposes of this definition by reason only that it contains no kitchen, lavatory or bathroom.

(2) For the purposes of these Regulations, buildings for the housing of workers shall be classified and defined as follows—

(a) CLASS I—PERMANENT OR SEMI-PERMANENT BUILDINGS:

Buildings of this class shall include buildings with floors made of concrete or wood, and constructed of hardwood, concrete, brick, asbestos, corrugated iron or other appropriate durable materials and in conformity with the minimum standards specified in these Regulations:

Provided that the roof of any building of this class may be thatched with thatch made from coconut fronds or pandanus leaves, if such thatch is maintained in a good and weatherproof condition;

(b) CLASS II—TEMPORARY BUILDINGS:

Buildings of this class shall include all buildings constructed of softwood, leaf or other usual temporary materials and in conformity with the minimum standards specified in these Regulations;

(c) CLASS III—SUB-STANDARD BUILDINGS:

Buildings in this class shall include all buildings not falling within either CLASS I or CLASS II.

3. No building shall be constructed for the purpose of housing workers, and no building which is not in use at the date of commencement of these Regulations shall be used, converted or adapted for such purpose unless such building is used, constructed, converted or adapted to conform with standards which are not inferior to those prescribed for buildings of CLASS I or CLASS II:

Minimum
standard for
new houses
for workers

Provided however that buildings of CLASS III which are in use for the purpose of housing workers on 31st December 1967 may continue to be so used only for a period of not more than 4 years from such date unless before the expiration of such period they are converted or adapted to conform with standards not inferior to those prescribed for buildings of CLASS I or CLASS II.

4. No one room in any building shall be used for the purpose of housing more than 6 single workers and in every building used for the housing of such workers each worker shall be provided with at least 48 square feet of floor-space exclusive of any floor-space in any kitchen or bathroom.

Housing of
single work-
ers

5. (1) No unit shall be used to house more than 1 worker and his family.

(2) No unit shall be used to house any worker and his family if such family includes his wife and 3 or more children, or his wife and any child aged more than 5 years unless such building comprises at least 2 rooms each having a floor-space of at least 96 square feet.

Housing for
workers
accompanied
by their
families

[Subsidiary]

(3) No unit shall be used to house any worker and his family if such family consists only of wife, or of a wife and one or 2 children aged under 5 years unless, in the case of a building of CLASS I it provides, exclusive of the floor-space of any kitchens or bathrooms, at least 144 square feet of floor space, or, being a building of CLASS II, it provides at least 2 rooms each having a floor space of at least 96 square feet.

Height of walls, etc.

6. (1) The outer walls of any building to which the provisions of regulation 4 or regulation 5 apply and which has a thatched roof but no ceiling, shall be not less than 6 feet in height and the average height of any room in such building shall be not less than 7 feet.

(2) The outer walls of any building to which the provisions of regulation 4 or regulation 5 apply and which has a roof made of some material other than thatch but no ceiling shall be at least 7 feet 6 inches in height and the average height of any room in such building shall be not less than 9 feet.

(3) The outer walls of each storey of any building to which the provisions of regulation 4 or regulation 5 apply and which has ceilings in all the rooms of any such storey shall be not less than 7 feet 6 inches and the average height of each such room shall be not less than 8 feet.

(4) No building shall be divided into more than 2 units for use for the purpose of housing workers without the written permission of the Commissioner to such division and use being first had and obtained; and the Commissioner, in his absolute discretion, may refuse such permission, grant it subject to such conditions as he may see fit to impose, or may suspend or cancel it.

Window spaces and ventilation

7. (1) Any building used for the purposes of housing workers shall be provided with window spaces in the walls thereof which spaces, in the aggregate, have an area of not less than one twelfth of the floor area of such building; and each window space shall be provided with a movable pane or shutter which is capable of completely filling such space or which may be raised or otherwise moved so as to leave it completely open.

(2) Each room in any building used for the housing of workers shall be so constructed as to permit adequate cross ventilation thereof at all times and to provide permanent ventilation in the upper part of the walls amounting to not less than one twenty-fourth of the floor area.

Beds

8. All buildings of CLASS I used for the housing of workers shall be provided with sufficient beds or sleeping platforms reasonably to accommodate the occupants of such buildings:

Provided however that there shall be a separate bed or sleeping platform for each single worker not accompanied by his family.

Kitchens

9. (1) A kitchen shall at all times be provided within, or within reasonable distance of, any building used for the purpose of housing workers unless such workers receive reasonable quantities of cooked rations from their employers.

(2) No such kitchen shall—

(a) be shared during any one day by more than 24 single workers;

(b) be shared during any one day by more than 1 worker and his family;

(c) be without an adequate smoke-hood and flue or other adequate means for dispersing or removing smoke or fumes from cooking operations;

(d) be smaller in area than 48 square feet if not part of any other building or smaller in area than 30 square feet if part of a building of CLASS I; or

(e) form part of any CLASS II building used by workers for the purpose of sleeping.

[Subsidiary]

10. (1) No building of CLASS I shall be within 25 feet of any other building except a kitchen or bathroom intended for the use of persons housed in the first mentioned building. Siting of buildings

(2) No building of CLASS II shall be within 30 feet of any other building except a kitchen or bathroom intended for the use of persons housed in the first mentioned building.

11. On the sites of all buildings used for the housing of workers adequate drainage shall be provided to ensure that no stagnant water lies on the surface of the ground in the vicinity of such building. Drainage

12. Any person who requires or permits any worker to reside in any building which contravenes the provisions of these Regulations or in respect of which building the kitchen, siting, drainage or other thing is not provided as required by these Regulations shall commit an offence in respect of each such worker and shall be liable to a fine of \$50 and to imprisonment for 3 months. Penalty

(5) EMPLOYMENT (FAIR WAGES CLAUSES IN PUBLIC CONTRACTS) REGULATIONS

L.N. 10/71

1. These Regulations may be cited as the Employment (Fair Wages Clauses in Public Contracts) Regulations. Citation

2. In these Regulations— Interpretation

“Commissioner” means the Commissioner of Labour;

“public authority” means the Government and any local government authority and includes any other authority, board or body declared by the Minister by notice to be a public authority for the purpose of these regulations;

“public contract” means a contract which fulfils the following conditions—

- (a) that at least one of the parties thereto is a public authority;
- (b) that the execution of the contract involves—
 - (i) the expenditure of funds by a public authority, and
 - (ii) the employment of workers by the other party to the contract;
- (c) that the contract is a contract for—
 - (i) the construction, alteration, repair or demolition of public works, or
 - (ii) the manufacture, assembly, handling or shipment of materials, supplies or equipment, or
 - (iii) the performance or supply of services; and
- (d) the contract involves the expenditure of an amount of not less than \$5,000;

“trade union” means a trade union as defined in the Trade Unions Ordinance. Cap. 97

3. Every public contract made hereafter shall, as respects rates of wages, hours of work and conditions of labour, be subject to the following provisions— Provisions applicable to public contracts

- (a) In places where rates of wages and hours and conditions of labour in a particular trade or industry have been established after negotiation between employers and trade unions and are adhered to as a practice of the particular trade or industry in such places, the contractor shall pay rates of wages and observe hours of work and conditions of labour not less favourable to his workers than those established as aforesaid (hereinafter referred to as “established rates and conditions”).

[Subsidiary]

- (b) In places where there are no established rates and conditions, and no trade union which is representative of a substantial proportion of the workers in the particular trade or industry concerned, then rates and conditions which have been established in the district where the work is carried on for contracts of a similar nature shall apply:

Provided that, in the event of failure to reach agreement as to what constitute established rates and conditions as aforesaid, the matter shall be referred to the Commissioner who shall act as arbiter and whose decision or award shall be final and binding upon the parties to the contract.

- (c) The contractor or sub-contractor shall post notices, in conspicuous places in the establishments and work places concerned, informing the workers of the rates of pay and other conditions of work.

Certificate of tenderer for public contract

4. No tender for public contracts shall be accepted unless and until the tenderer has certified to the satisfaction of the Commissioner that the wages, hours of work and conditions of labour of all workers employed by him are fair and reasonable.

Duties of contractor and sub-contractor

5. (1) The contractor shall not transfer or assign directly or indirectly to any person or persons whatever any part of his contract without the written permission of the public authority.

(2) A sub-contractor shall in relation to the requirements of these Regulations be bound in all cases to conform to the conditions of the main contract in so far as they apply to him and the main contractor shall be responsible for the observance of all contract conditions on the part of sub-contractors, so far as conditions of labour are concerned.

Contractor's certificate

6. On completion of the work contracted for, the contractor shall file with the Commissioner a certificate showing—

- (a) the rates of wages and hours of labour of various classes of workers employed in the execution of the contract;
- (b) whether any wages in respect of the said work and labour remain in arrears; and
- (c) that all other labour conditions of the contract have been duly complied with.

Further information

7. The contractor shall also furnish to the Commissioner such further detailed information and evidence as the Commissioner may from time to time deem necessary to satisfy him that the conditions of these Regulations are being or have been complied with.

Consequence of contractor's default in payment

8. Should the contractor default in payment of any money in respect of wages due to any worker employed by him on a contract and should such worker file a claim for such wages with the Commissioner and should he furnish proof thereof to the satisfaction of the Commissioner, then the Commissioner may, failing payment by the contractor, arrange for the payment of such claim out of the moneys at any time payable under the said contract and an amount so paid shall be deemed a payment to the contractor.

LAWS OF KIRIBATI
REVISED EDITION 1980

CHAPTER 30

EMPLOYMENT

The Employment Ordinance is amended—

- (1) In section 2 by adding the following definitions— 9 of 1980,
s. 2
- “‘contract of employment’ means any contract, whether oral or in writing whether express or implied to employ or to serve as an employee;”
- (Added, 9 of 80, s. 2)
- “‘National Conditions of Service’ means the National Conditions of Service made by Government in relation to employees of Government, Statutory Bodies, and Government owned companies;”
- (Added, 9 of 80, s. 2)
- (2) In section 2 by repealing the definition “worker” and substituting the following definition— 9 of 1980,
s. 2
- “‘worker’ means any person who has entered into or works under a contract of employment and includes any immigrant worker and any worker who is apprenticed, but does not include any domestic servant;”
- (Substituted 9 of 80, s. 2)
- (3) In section 55 (1)— 9 of 1980,
s. 2
- (a) by repealing the words “as a manual worker”.
- (b) by inserting after sub-paragraph (b) the word “or” and the following sub-paragraph—
- “(c) has been in operation for a period exceeding 1 month or for more than 30 working days at the time when this sub-paragraph is brought into force and is to continue in operation”.
- (N.B. brought into force 1 January, 1981)
- (Amended, 9 of 80, s. 3)
- (4) In section 56 by inserting after paragraph (g) the following 9 of 1980,
s. 4 paragraphs—
- “(ga) any entitlement to annual increments in wages;
- “(gb) any entitlement to annual leave and leave pay;

(gc) any entitlement to sick leave and payment whilst sick;”.

(Added, 9 of 80, s. 4)

9 of 1980,
s. 5

(5) In section 73—

by repealing the figure “\$100” and substituting the figure “\$300”.

(Substituted, 9 of 80; s. 5)

9 of 1980,
s. 6

(6) By repealing section 113 and substituting the following section—

“113. This Ordinance shall bind the State save and except that nothing in this Ordinance shall apply to or in relation to police officers, and Part VI shall not apply to workers whose employment is regulated by the National Conditions of Service.”.

(Substituted, 9 of 80, s. 6)