

REPUBLIC OF ZAMBIA

THE EMPLOYMENT (SPECIAL PROVISIONS) ACT

CHAPTER 270 OF THE LAWS OF ZAMBIA

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THE EMPLOYMENT (SPECIAL PROVISIONS) ACT

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CHAPTER 270

EMPLOYMENT (SPECIAL PROVISIONS)

An Act to make special provision with respect to employment during any period when a declaration under section 29 of the Constitution is in force; and to provide for matters incidental thereto.

*Acts No.
29 of 1966
13 of 1994*

[29th July, 1966]

1. This Act may be cited as the Employment (Special Provisions) Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"employee" means any person who has entered into or works under a contract of service, whether the contract is express or implied, is oral or in writing, and whether the remuneration is calculated by time or by work done, or is in cash or in kind.

3. The provisions of this Act and of any regulations made under this Act shall have effect only during a period when a declaration of a State of Emergency under the Constitution is in force.

Application
Cap. 1

4. (1) The President may, by statutory instrument, make such regulations as appear to him to be necessary or expedient in the public interest for securing the continued employment of employees and for regulating the conditions of service of employees whose continued employment is secured by virtue of the regulations.

Regulations with
respect to employment

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations under that subsection may make provision for-

- (a) prohibiting the dismissal or the termination in any other manner of the employment of employees, whether or not previous notice of such dismissal or termination has been given to the employees, except in such circumstances and upon such conditions, if any, as may be prescribed by or under the regulations, including provision prohibiting any such dismissal or termination except with the approval of an officer or authority specified by or appointed under the regulations;
- (b) the establishment of a tribunal for the purpose of reviewing the decisions of an officer or authority referred to in paragraph (a), including provision with respect to-
 - (i) the constitution of the tribunal;
 - (ii) the persons who may apply to the tribunal for the review of any such decision;
 - (iii) the circumstances and manner in which and the conditions upon which any such application for review may be made;
 - (iv) the powers, practice and procedure of the tribunal in relation to any such application for review;

and may make or authorise the making of such incidental, supplemental and consequential provisions as appear to the President to be expedient for the purposes of the regulations.

(3) Regulations under this section may-

- (a) exempt or provide for the exemption of any person or class of persons from the operation of all or any of the provisions of the regulations;

- (b) make different provision with respect to different areas in Zambia, different persons or classes of persons and different circumstances;
- (c) prescribe penalties for contraventions of or failure to comply with the provisions of the regulations, not exceeding a fine of fifteen thousand penalty units.

(As amended by Act No. 13 of 1994)

5. Regulations made under section *four* and anything done under the authority of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any other enactment having the force of law in Zambia other than this Act, the Constitution, the Emergency Powers Act or the Preservation of Public Security Act; and for so long as regulations made under section *four* have the force of law, any provision of such an enactment shall, to the extent of the inconsistency, have no effect.

Repugnancy with other enactments
Cap. 1
Cap. 108
Cap. 112

6. Nothing in this Act or in any regulations made under this Act shall be construed as binding the Republic.

Republic not bound

SUBSIDIARY LEGISLATION

THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

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SECTION 4 -THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS

Regulations by the President

Statutory Instrument
56 of 1989
Act No.
13 of 1994

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1. These Regulations may be cited as the Employment (Special Provisions) Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation
- "Chairman" means Chairman of the Tribunal;
- "proper officer" means a Principal Labour Officer, a Senior Labour Officer, a Labour Officer, an Assistant Labour Officer, a Labour Inspector, a District Executive Secretary, or an Administrative Secretary in the district or town within which a person is employed;
- "Secretary" means the Employment Secretary of the Tribunal;
- "Tribunal" means the Employment Review Tribunal established under regulation 7.
3. (1) These Regulations shall not apply in relation to- Application and exemption
- (a) an employer the number of whose employees is less than five; or
- (b) a person who is adjudged or otherwise declared bankrupt; or
- (c) a company which is being wound up.
- (2) The Minister may, by writing under his hand, exempt any person or class of persons from all or any of the provisions of these Regulations; and any such exemption may be made subject to such conditions and restrictions, if any, as may be specified by the Minister.
4. (1) No person shall dismiss or otherwise terminate the employment of any employee, irrespective of whether previous notice of the dismissal or termination has been given to the employee or not, unless- Restriction on dismissal or termination of employment
- (a) approval of the proper officer in writing, has been given to the dismissal or termination; or

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- (b) the employee is dismissed on the grounds of wilful disobedience, misconduct, neglect or incompetence and-
 - (i) the person by whom the employee is dismissed would, but for the provisions of these Regulations, have been entitled to dismiss the employee on those grounds summarily and without notice; and
 - (ii) the person by whom the employee is dismissed notifies the proper officer, within four days after the date of dismissal, of the circumstances and reasons leading to the dismissal;
- (c) in the case of an employee who was engaged for a period of fixed duration or for the performance of a specific task, the employment is terminated on the expiry of that period or, as the case may be, on the performance of that task.

5. Any person who withholds or alters to the detriment of any employee any of the benefits to which the employee is entitled under his contract of service shall be guilty of an offence. Prohibition of variation of conditions of service

6. Where an application is made to the proper officer for the approval of any matter under these Regulations, the proper officer shall notify the applicant of his decisions on it as soon as reasonably practicable. Decision of proper officer to be made promptly

7. (1) For the purpose of these Regulations, there shall be established a tribunal to be known as "the Employment Review Tribunal". Establishment and constitution of Employment Review Tribunal

(2) The Tribunal shall consist of three members appointed by the Minister, one of whom shall be designated by the Minister as the Chairman of the Tribunal.

(3) The Minister shall appoint a public officer to be Secretary to the Tribunal.

(4) The Members of the Tribunal shall hold office during the pleasure of the Minister.

(5) The Minister may appoint-

- (a) such number of alternate members of the Tribunal as he thinks fit, and an alternative member may attend any meeting of the Tribunal when a member is unable to do so for any reason, and when attending any such meeting, an alternate member shall, for all purposes, be deemed to be a member of the Tribunal;

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- (b) an alternate Chairman from among the alternate members and the alternate Chairman may perform all the functions of the Chairman, when the latter is unable to do so for any reason.

8. (1) Meetings of the Tribunal shall be convened by the Secretary, acting in accordance with the directions of the Chairman, and may be adjourned from time to time and from place to place.

Meetings and proceedings of Tribunal

(2) At any meeting of the Tribunal, the Chairman and one other member shall form a quorum.

(3) The Chairman shall preside at the meeting of the Tribunal.

(4) At a meeting of the Tribunal decisions shall be taken by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairman shall have a second or casting vote, in addition to a deliberative vote.

(5) Proceedings of every meeting of the Tribunal shall be recorded and a copy of the record shall be furnished to the Minister.

(6) Subject to the provisions of these Regulations, the Tribunal may regulate its meetings and procedure in any manner it considers fit.

9. (1) Where any application for the approval of any matter under these Regulations is refused by the proper officer, the applicant may, not later than fourteen days after his being notified of the refusal, apply to the Tribunal for a review of the decision of the proper officer.

Application for review

(2) An application for review under sub-regulation (1) shall be made in writing addressed to the Secretary to the Tribunal and shall specify the grounds upon which review is sought.

(3) On receiving an application for review, the Secretary shall inform the applicant and the employee concerned of the place, date and time at which the application will be heard by the Tribunal.

10. (1) The Tribunal shall consider every application for review made under regulation 9 and may, after due inquiry-

Hearing and determination of review

- (a) dismiss the application, and confirm the decision of the proper officer; or

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- (b) allow the application in whole or in part, and declare the dismissal of the employee or termination of his employment to be lawful; or
- (c) remit the matter to the proper officer for the further inquiry and consideration.

(2) For the purposes of any inquiry held by the Tribunal, it may hear and receive such oral and written evidence as it thinks fit, and the Chairman may administer on oath to a witness.

(3) At any inquiry held by the Tribunal, the applicant and the employee to whom the application related shall be entitled to be heard in person or by a representative and to submit representations in writing:

Provided that, except with the leave of the Tribunal, no person shall be entitled to be represented at any such inquiry by a legal practitioner.

(4) The decision of the Tribunal on any application reviewed under these regulations shall be binding and final.

11. A person guilty of any offence under any provision of these Regulations is liable on conviction, to a fine not exceeding ninety thousand penalty units. Penalty

(As amended by Act No. 13 of 1994)