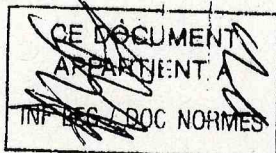


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~~RESERVES~~

## OFFICIAL GAZETTE

Labour Code of the Democratic Republic of Afghanistan

Ordinance of the Presidium of the Revolutionary Council of the Democratic Republic of Afghanistan, Kabul City, No. 103, dated 11.06.1987.

Concerning adoption of the Labour Code of the Democratic Republic of Afghanistan.

By virtue of the purport of article (44) of the Constitution of the Democratic Republic of Afghanistan, the Presidium of the Revolutionary Council of the Democratic Republic of Afghanistan approves the following:

First article:

The Labour Code of the Democratic Republic of Afghanistan contains 17 chapters and 178 sections.

Second article:

1. The terms "hired worker" (external collaborator) and "official" (functionary) are cancelled.

2. According to the provisions of the Labour Code of the Democratic Republic of Afghanistan, the staff are divided into the following categories: employees, workers and service personnel.

Third article:

The Council of Ministers of the Democratic Republic of Afghanistan is charged to take the following actions:

- (1) To prepare the Civil Servants Bill, with due regard to their work and duties as well as taking account of the Government Employees Law, its amendment and appendices, within three months, and to submit the Bill to the Presidium of the Revolutionary Council of the Democratic Republic of Afghanistan for its consideration.
- (2) To prepare the following legislative documents within four months and to proceed through stages:
  - (a) legislative documents regarding determination of grade, scope, limitation and conditions of promotion (elevation) of grade, authorities approving the employment contract, transference, retirement of workers, service personnel and contractual employees;
  - (b) regulations concerning the pensions contribution, as well as the conditions, amount and the manner of payment of the pensions of the staff;
  - (c) regulations regarding settlement of disputes arising from work;
  - (d) regulations pertaining to the determination and arrangement of compensation for loss or damage sustained due to incapacity or ill-health related to work;



- (e) regulations regarding types and limits of financial responsibility for the damage inflicted on office (workplace), as well as the method of its determination, amount and the arrangement of its compensation.
- (3) To amend, compile and approve the regulations, by-laws and rules applicable to the worksite, according to the Labour Code of the Democratic Republic of Afghanistan and this Ordinance.
- (4) To consider and draw up other legislative and administrative documents that are envisaged in the Labour Code of the Democratic Republic of Afghanistan within four months after the Code comes into effect.
- (5) To prepare specific plans in order to draw up the functions and duties envisaged in paragraphs (3) and (4) of this article.

Fourth article:

The State Committee of Labour and Social Security shall, with the concurrence of the Central Council of the Traders Guilds (trade unions) of Afghanistan, draw up instructions for assigning of the members of the staff to any of the categories, taking account of their functions and characteristics of their work.

Fifth article:

Enforcement of retirement pensions scheme and other assistance, as are envisaged in the Labour Code of the Democratic Republic of Afghanistan, is applicable to those members of staff and their families whose pensions and benefits are fixed after the Labour Code has come into force.

Sixth article:

Within a period of four months, the Ministry of Justice of the Democratic Republic of Afghanistan shall, jointly with the State Committee of Labour and Social Security of the Democratic Republic of Afghanistan, prepare the list of legislative documents that are to be amended or annulled on enforcement of this Code, and shall proceed through its various stages.

Seventh article:

This Code comes into effect after being published in the Official Gazette.

Haji Mohammed Khomkani,  
Acting Head of the Presidium of the  
Revolutionary Council of the  
Democratic Republic of Afghanistan.



The Labour Code of the Democratic Republic of Afghanistan

Chapter I. General Provisions

Article (1)

The Labour Code of the Democratic Republic of Afghanistan is enacted to fulfil the objectives mentioned hereunder:

- (1) stabilisation, consolidation and drawing up of labour relations of the staff (workers);
- (2) provision of the equal right to work, and the protection of the labour rights of the staff (workers);
- (3) improvement of work and production organisation, raising work efficiency, reasonable utilisation of labour resources, promotion of effectiveness of social production, extension of the progressive systems of wages, livelihood and social security in order to raise the level of the material, social and cultural life of workers and personnel;
- (4) strengthening the labour and production discipline, fostering the spirit to work consciously and honestly, and attracting all workers and personnel to the question of management and guidance of work and production;
- (5) fixing wages, salaries and obligations of workers, personnel and responsible officials in the field of work and production, fulfilment of working conditions, work protection and safety techniques, continual promotion of skills of workers and personnel as well as the observance of legislative documents related to work;
- (6) to prepare a favourable and secure ground for work for all citizens in the country who are capable of working, in order to help the growth and development of the national economy.

Article (2)

For the purpose of summary and definition, the following terms used in this Code, have the meanings mentioned hereunder:

- (1) Office: All state and mixed enterprises, administrations and institutes, social organisations, co-operatives as well as private enterprises provided that they are not otherwise explicitly mentioned in any special form.
- (2) Staff: All categories of staff whether employees, workers and service personnel covered by the working relations with the office.
- (3) Wage: All forms of wage, subsistence and other payments (remunerations) made to workers and personnel of the Democratic Republic of Afghanistan in return for performance of work and rendering of services.
- (4) Labour (employment) contract: The agreement reached between those covered by the specified categories of staff and the office, on the basis of which the member is, according to specified conditions, obliged to perform the work according to the speciality, skill and the duties



assigned while observing the internal regulations of the office, and, reciprocally, the office is obliged to ensure payment of wages and working conditions as provided in this Code, collective agreement and mutual agreement (consent).

- (5) Training contract: An agreement between the trainee or his legal representative (guardian) and the office, on the basis of which the latter teaches the trainee the theoretical, practical and professional skills provided for in the contract. In addition, the trainee performs the work specified in the training contract in return for the specified wage.
- (6) Collective agreement: An agreement between the staff collectively and the office in connection with adjustment of salaries and obligations of the parties within the limits set by this Code.
- (7) Youth: A person who has reached 13 years of age, and has not reached 18 years of age.
- (8) The Council of Representatives: The leadership organ elected by members of the traders guilds (trade unions).

#### Article (3)

1. This Code generally regulates the labour relations of all categories of staff whether employees, workers or service personnel.

2. The characteristics of the labour relations of the members of the staff mentioned in paragraph 1 of this article, can, taking account of the legal form and nature of the office (state, co-operative, mixed, social and private), be drawn up through special legislative documents, provided that the legislative document is not incompatible with the general bases of the Labour Code of the Democratic Republic of Afghanistan.

3. If there is no order or verdict regarding labour relations of certain groups of staff in this Code and special legislative documents, then their compilation will be deemed to be subject to the local custom and usage that are not incompatible with the law and principles of justice.

4. The rules of procedure regarding assignment of the members of staff to any of the categories, shall taking account of the duties and work characteristics, be drawn up by the State Committee of Labour and Social Security with concurrence of the Central Council of the Traders Guilds of Afghanistan.

5. Fixing of ranks and grades, limits and conditions of promotion and advancement of ranks and grades for workers, personnel as well as the authorities deciding appointment, transfer, promotion, advancement, retirement, unpaid leave of workers and personnel, as the case may be, shall be determined through special legislative documents.

#### Article (4)

1. The provisions of this Code are applicable to those groups of foreign nationals who, either through separate contracts or without any previous contracts, have obtained visas to work in the Democratic Republic of Afghanistan, and who have been employed by the competent authorities of the



Democratic Republic of Afghanistan; their employment conditions will be drawn up through separate regulations.

2. The foreign workers and employees in the Democratic Republic of Afghanistan whose salaries and other benefits are financed as grant-in-aid by their respective countries or international organisations, are subject to bilateral or multilateral agreements, one party of which is the Democratic Republic of Afghanistan.

3. The Council of Ministers of the Democratic Republic of Afghanistan can decree (establish) certain reciprocal restrictions in the case of the nationals of those countries in the labour legislation of which some restrictions have been imposed on the nationals of the Democratic Republic of Afghanistan.

#### Article (5)

The provisions of this Code are applicable to the nationals of the Democratic Republic of Afghanistan who are engaged in the diplomatic, consular, and cultural missions and other Afghan organisations abroad, also to the agencies of the United Nations organisations and other international organisations as well as to foreign and international missions, institutes and organisations residing in the Democratic Republic of Afghanistan, provided it is not envisaged otherwise in the legislative documents of the Democratic Republic of Afghanistan, or in the agreements of the two parties and in the international commitments of the Democratic Republic of Afghanistan.

#### Article (6)

1. The nationals of the Democratic Republic of Afghanistan have the right to work in return for wages or salaries. In order to safeguard the right of paid (remunerative) work, the Government will prepare and adopt the economic and social development plans for the minimum equitable wage, will bring about the necessary conditions for development of the system of vocational and technical training, and will enact equitable and progressive legislative documents related to work.

2. The right to work is protected by law. Defence of the right to work is ensured by the state organs, the traders guilds and by other social organisations.

#### Article (7)

The members of the staff are entitled to receive wages and salaries on the basis of the quality and quantity of the work and with due regard to grades, ranks and the given post.

#### Article (8)

1. Equal right to work is guaranteed for all nationals of the Democratic Republic of Afghanistan regardless of race, national, local or tribal affinity, gender, language, religion, education, property or social origins and connections.



2. In employment, payment of wages, professions, trade, as well as in the right to education and social insurance, any kind of discrimination, either direct or indirect, is forbidden.

#### Article (9)

1. In the Democratic Republic of Afghanistan women enjoy the same rights as men in the workplace, and receive equal wages and salaries for equal work done.

2. During the period of pregnancy and after the birth of a child, and in other cases envisaged in this Code and legislative documents, certain benefits are given to women in the workplace.

#### Article (10)

The nationals of the Democratic Republic of Afghanistan are free to choose their profession, speciality and the type of job to suit their educational field, interests, talent and professional aptitude, taking account of the needs of society.

#### Article (11)

Compulsory work is not permitted. Work is regarded as compulsory when the person concerned is forced to perform it by means of intimidation or other methods against his will.

The work which one is obliged to perform by law is not considered as compulsory.

#### Article (12)

According to legislative documents, workers and personnel are entitled to rest, leave, health insurance, occupational safety, free vocational training, promotion of skill level, membership in trade unions, participation in management of offices and production and the right to enjoy social security.

#### Article (13)

The Democratic Republic of Afghanistan observes international conventions in connection with labour to which Afghanistan has adhered, and respects other international conventions and standards within the limits of the special conditions and possibilities of the country.

### Chapter II. Collective Agreement

#### Article (14)

1. After the confirmation of the whole staff, the collective agreement is signed between the office and the Council of Representatives acting on behalf of the whole staff.



2. The collective agreement is signed every year during the month of Hoat (21 February-20 March) between the Head of the Council of Representatives and the representative of the office and will come into force from the beginning of the following year (beginning 21 March).

#### Article (15)

The collective agreement contains general provisions concerning the problems of work, wages, time of work, rest periods, material and intellectual incentives of workers, standardisation, work protection, occupational safety and health, improvement of rest conditions, health services, social security, adoption of measures concerning the drawing up and implementation of production plans, training, raising the skill level of workers and other matters with due regard to the relevant legislative documents, as well as the commitments of the parties as to the application and solution of the above-mentioned problems.

#### Article (16)

The collective agreement applies to the whole staff, whether trade union members or not.

#### Article (17)

If a dispute arises between the Council of Representatives and the office regarding the planning and application of the collective agreement, it will be settled by their superior organs, and if such a dispute arises in the private and mixed enterprises, then it will be settled by the organs of the relevant superior trade unions (traders guild) and state organs (agencies).

#### Article (18)

The person responsible for the office and the Council of Representatives will control the application of the collective agreement.

#### Article (19)

The traders guilds do not assume responsibility for the material (financial) obligations contained in the collective agreement.

### Chapter III. Employment and the Labour Contract

#### Article (20)

A person who fulfils the following conditions can be employed in the office:

- (1) having attained full 15 years of age in the case of workers, service personnel and contract employees, and full 14 years of age in the case of trainees;



- (2) in the case of males, having terminated compulsory military service, on presentation of an exemption document therefor or deferment from military service or not having reached the age of conscripts for being called to military service.

#### Article (21)

In particular cases and subject to the agreement of the legal representative (guardian) and confirmation of the relevant Council of Representatives, a youth who has reached 14 years of age can be employed as a worker and a youth who has reached 13 years of age can be employed as a trainee, however, as long as they do not fulfil the conditions of workers, it would not be permissible to assign independent work to them, and the office would be duty bound to train them in special crafts or vocations.

#### Article (22)

1. Except for permanent civil servants, workers and personnel are employed on the basis of labour (employment) contracts.

2. The labour and training contracts are concluded according to the written samples prepared by the State Committee of Labour and Social Security with the agreement of the Central Council of the Traders Guilds of Afghanistan.

3. The labour and training contracts are prepared in two copies and, after being signed, each side keeps a copy thereof.

4. The work for which a wage is paid daily would not require a written contract.

#### Article (23)

It is forbidden to refuse to work without a good cause.

#### Article (24)

1. Labour contracts are concluded in the following forms:

- (1) for a definite period not less than a year;
- (2) for an indefinite period;
- (3) for performance of a definite job, or for seasonal work.

2. The working conditions for workers and personnel working daily or a part thereof are drawn up through a separate legislative document.

#### Article (25)

1. When signing a labour contract, a probation period can be envisaged as a condition.

2. The probation period is two weeks for workers and service personnel, and cannot be more than one month for contract employees.



3. The period of absence that is due to the temporary loss of the capacity to perform work, the temporary stoppage of work and production or to other justified causes, is not considered as a part of the probation period.

4. During the probation period, the rights and obligations of the parties to the contract are subject to the provisions of the legislative documents of the Democratic Republic of Afghanistan.

#### Article (26)

No probation period is determined for the following persons:

- (1) trainees and persons who have not reached 15 years of age;
- (2) graduates of higher education, secondary, vocational, technical and professional institutes;
- (3) workers and personnel who are transferred to another office;
- (4) permanently and partially disabled persons.

#### Article (27)

If the labour contract is not abrogated prior to termination of the probation period, then the contract will continue according to the conditions contained therein.

#### Article (28)

1. Except for labour contracts of an indefinite period, other labour contracts can, as the case may be, be renewed or prolonged subject to the agreement of the parties.

2. If the period of the labour contract is terminated but the labour relations continue as before, and if neither side requests its abrogation, then the labour contract is deemed to have been renewed with the previous period.

#### Article (29)

The person responsible for the office cannot ask the other party, without the latter's agreement, to perform a piece of work not mentioned in the contract, except in those cases explicitly provided for in this Code.

#### Article (30)

The person in charge of the office can, irrespective of the provisions contained in the labour contract, temporarily assign other tasks to workers and personnel in the same office, or in another office in the same locality, in the cases mentioned hereunder:

- (1) in the same office, according to speciality, skill, job, wage level and other benefits, and without great changes in the working conditions;



(5) reassignment of the contract employee, worker or service personnel to the same work he had been performing, taking account of the urgent need of the office.

2. Abrogation of the labour contract, by virtue of parts (1), (2), (4) and (5) of paragraph 1 of this article, is permissible only when it is not feasible to transfer the person concerned, subject to his agreement, to a similar job in the same office.

#### Article (33)

1. In the event of the abrogation of the labour contract on the basis of the reasons mentioned in parts (1), (2), (4) and (5) of paragraph 1 of article (32) of this Code, the office would be duty bound to inform the worker (employee) of the matter within one month.

2. Abrogation of the labour contract on the basis of the cases mentioned in paragraph 1, part (3), of article (32) of this Code is carried out without any previous notice.

#### Article (34)

1. The worker concerned can abrogate a labour contract of an undetermined period with one month's written notice.

2. The worker concerned can abrogate the labour contract prior to the termination of its period without giving any previous notice in the following cases:

(1) if the office has breached the labour contract and the provisions of this Code;

(2) in the event of sickness of long duration, disability or other justifiable excuses.

#### Article (35)

1. With the co-operation of the State Committee of Labour and Social Security and its organs in provinces, the office is duty bound to take measures concerning recruitment and placement of the workers who, by virtue of the reasons mentioned in parts (1), (2), (4) and (5) of paragraph 1 of article (32) of this Code, are dismissed (laid off).

2. In the case of the workers and personnel mentioned in paragraph 1 of this article as well as the workers and personnel who refer (to the office) within one month after being discharged from the armed forces of the Democratic Republic of Afghanistan, and provided they had been working in the office until the time they were called up to the armed forces, the office shall pay them the basic salary of their ranks or grades up to the time they are recruited and for a period of up to three months.

#### Article (36)

In the event of an an abrogation of the labour contract in the cases mentioned in this Code, the worker concerned reserves his pension and other rights provided for in the legislative documents.



Article (37)

The labour contract cannot be annulled during legal and service leave periods, unless the office has been completely dissolved.

(Article 38)

1. With pensioners, partially disabled persons and women engaged in household duties or in raising and educating their children, as well as with other persons, the office can sign contracts on the basis of a day or part of a week, or payment by results (piece-work) or work done outside the office.

2. The conditions for the signing of labour contracts, working conditions and payment of wages for those cases mentioned in paragraph 1 of this article are drawn up in legislative documents.

Article (39)

At the worker's request, the office would be obliged to confirm the place, speciality, duties, type and duration of his work as well as his wage level.

Chapter IV. Vocational Training, Raising of Skill and Apprenticeship

Article (40)

The office will take necessary measures to conduct in-service professional training for unskilled and semi-skilled workers, to teach new techniques and trades to workers, and to raise the skill level of workers and service personnel.

Article (41)

1. The duration of training shall not be less than three months or more than two years.

2. The duration of the training, hours of practical and theoretical training to the trainee, both inside and outside the worksite, will, with due regard to the profession or occupation, be determined by the relevant officers of the Ministry of Higher and Vocational Education, with the concurrence of the Council of Representatives of Afghanistan and the State Committee of Labour and Social Security.

3. The trainee who has completed the training duration in a given profession or occupation and who has acquired the ability to perform the work independently, will be examined by a special committee of the office in co-operation with the representative of the Council of Representatives, then will be accorded a certain grade in conformity with his skill level and will be employed in the capacity of a worker after having reached legal age.



Article (42)

1. In order to raise the vocational level and also to increase professional and occupational experience and skills of workers, particularly that of youths, the office will draw up and implement in-service training programmes in individual and group forms and courses as well as other training methods.

2. Practical and theoretical lessons are taught during working periods and exact wage for the hours of work is paid.

3. The sample programmes, training conditions and raising of the level of specialisation and skill of the personnel are drawn up by the legislative documents.

Article (43)

The office will introduce outstanding workers to the institutes of higher education, to the vocational, technical and professional secondary establishments in order to continue their studies, on the basis of the relevant legislative documents.

Article (44)

For those workers who undergo training while working in educational and scholastic establishments, the office is obliged to prepare the necessary conditions for progress of the work together with training, and to grant them leave and the privileges provided for in this Code during laboratory work, the principal test and adequacy test.

Article (45)

1. The wages, salaries and benefits of the skilled workers who graduate from vocational, technical and professional secondary schools will be determined by regulations.

2. The supplementary period of training of workers in the institutes of higher education, technical schools in the vocational, technical and professional secondary schools as well as in other educational establishments will be considered as a part of their service period, provided that they have successfully completed the relevant courses.

Article (46)

1. In order to eliminate illiteracy and raise public (general) knowledge, the office will teach reading and writing to illiterate people.

2. The hours during which reading and writing (literacy) are taught are considered as the hours of paid work.

Article (47)

1. Subject to the agreement of both parties, the office will prepare groundwork for successful participation in practical courses by students of technical and professional schools, technical institutes, vocational secondary



educational establishments and the students of the institutes of higher education as well as the groundwork for apprenticeship and raising of vocational skill for teachers in educational establishments.

2. Participation in apprenticeship courses by professors and teachers of institutes of higher education, and of vocational, technical and professional secondary schools will be dealt with by regulations.

3. Ministries and state committees, and the institutes of higher education, as well as the technical, vocational and professional secondary schools, are charged with drawing up separate procedures and working methods on the basis of provisions in paragraph 2 of this article, and after taking account of the special features of their work.

#### Chapter V. Hours of Work

##### Article (48)

1. The ordinary working period cannot, on average, be more than 40 hours per week during the year.

2. The working period on Thursdays cannot be more than five hours.

3. Annual level (balance) of working period, general measure to utilisation of working time, commencement and ending of the working period of workers, shift schedule, chart and other problems related to the working régime will be determined by the Council of Ministers of the Democratic Republic of Afghanistan.

##### Article (49)

1. The weekly working hours of workers are reduced in the following cases:

- (1) for youths who have not reached 16 years of age, 30 hours per week;
- (2) for youths between 16 and 18 years of age, 35 hours per week;
- (3) for workers engaged in underground work and under conditions that are injurious to their health, 35 hours per week.

2. The working time of teachers, professors, health officials and such like which, due to the special features of the work, need to be reduced, is determined by legislative documents.

3. The list of jobs and occupations which are harmful to health and in which working time should be reduced will be prepared by the Ministry of Public Health, the State Committee of Labour and Social Security and the traders guilds (trade unions) of Afghanistan.

##### Article (50)

1. In the event of work during the night, the shift shall be one hour less. For this purpose, night means 11 consecutive hours starting from 8 p.m. until 7 a.m. arranged by the internal rules of the office.



2. The provisions of paragraph 1 of this article do not apply to the following cases:

- (1) when reduced hours of work is envisaged for workers and personnel in accordance with article (49), paragraph 1, of this Code;
- (2) when it is not possible to reduce hours of work due to working and production conditions (uninterrupted production and in the work done in shifts according to work chart).

#### Article (51)

1. Commencement and ending of shift work are fixed by the internal rules and procedures of the office and in the order of shifts.

2. In the event of there being many shifts, the workers are changed every week in rotation according to the work chart.

3. It is not permissible to require (ask) a worker to work during two successive shifts.

#### Article (52)

1. Wasted time arising from work stoppages due to factors contained in article (82) of this Code can be compensated during one month maximum, regardless of the length of the work stoppage.

2. The hours of work in the cases mentioned in paragraph 1 of this article cannot be more than ten hours per day and 50 hours per week, including ordinary hours of work.

#### Article (53)

Work done outside the ordinary hours of work is considered to be overtime, which is permitted in the following cases subject to the concurrence of the Council of Representatives:

- (1) for the performance of a piece of work involving the defence of the country that cannot be delayed;
- (2) in order to prevent unforeseen production and social accidents (natural ones and removal of their consequences);
- (3) in order to repair and restore pieces of equipment which, when being idle, would lead to the stoppage of the work of a large number of workers;
- (4) in order to remove unforeseen events and happenings which would cause stoppage of social services affairs such as water supply, heating, lighting, canalisation, transport and telecommunications;
- (5) for performance of work which had started previously and which would cause material damage if discontinued;
- (6) in order to continue a piece of work which could not be stopped should the worker in the succeeding shift be absent. In such a case the office is obliged to take speedy measures to find replacement for the workers;



- (7) in order to make up for the work stopped as mentioned in article (82) of this Code;
- (8) in order to perform other pieces of work required by the office, which will be determined by the Council of Ministers.

2. The conditions, arrangement and the number of overtime hours will, with due regard to the special features of the work of the specified workers mentioned in this Code, be determined by the Council of Ministers of the Democratic Republic of Afghanistan.

#### Article (54)

1. With due regard to the seasons of the year and the days of the auspicious month of Ramadan (month of Muslim fasting), daily or weekly hours of work decrease or increase, provided that the working period per annum does not exceed the hours envisaged in articles (48) and (49) of this Code.

2. In offices which perform their functions in an uninterrupted way, and also in offices where, due to production and working conditions, no definite weekly working period can be considered, total working time (monthly, quarterly, half-yearly) shall be calculated with the agreement of the Council of Representatives, provided that the working time during the definite period would not exceed the ordinary number of evaluated (estimated) hours of work.

### Chapter VI. The Right to Rest and Leave

#### Article (55)

The workers are entitled to the recreational and leave periods as detailed hereunder:

- (1) breaks for performance of prayers and eating;
- (2) public leave (holidays) at the end of the week, leave on the days of festivities and other public leave;
- (3) recreational and annual leave;
- (4) sick leave;
- (5) necessary or urgent leave.

#### Article (56)

The break for eating and praying is not more than one hour and is not included in the working time. These breaks are drawn up and fixed by the internal working rules and procedures of the office.

#### Article (57)

Day leave (holidays) for festivities and other public holidays are as follows:



- (1) the weekend and holiday, including Friday, which shall not be less than 42 consecutive hours, unless otherwise stipulated in this Code;
- (2) Nomruz, or first of Hamal (21 March) of the New Year;
- (3) seventh of Somz (28 April), the anniversary of Somz revolution;
- (4) eleventh of Somz (1 May), the international solidarity day of workers;
- (5) twenty-eighth of Assad (19 July), the day of restoration of independence of the country;
- (6) ninth of Sonboleah (31 August), the solidarity day with Panbestaan and Bebochi peoples;
- (7) other festivities and religious days that are announced by the Ministry of Religious Affairs and Endowments of the Democratic Republic of Afghanistan.

#### Article (58)

During weekend holidays, days of festivities and other public and general holidays, work is allowed to be done, with the concurrence of the Council of Representatives, in the following cases:

- (1) performance of work in offices engaged in constant (uninterrupted) activities;
- (2) performance of work related to public services;
- (3) performance of work that cannot be delayed, urgent repairs, loading and unloading of consignments, work related to the prevention of unforeseen accidents, removal of consequences of natural accidents and other exceptional cases.

#### Article (59)

In offices engaged in constant activity, leave on various days of the week is arranged on the basis of the programme (manning table) of the shift work of each group by the person in charge of the office, subject to the concurrence of the Council of Representatives.

#### Article (60)

In offices where work cannot be stopped on holidays (leave days) because of the need to meet public requirements, the person in charge of the office, with the agreement of the Council of Representatives, can grant leave to the worker on any other day of the week, while observing the turn or rotation (of each worker).

#### Article (61)

If a public holiday falls on Wednesday, then Thursday is considered as a holiday.



Article (62)

1. Workers and personnel are entitled to 20 days' recreational leave with pay every year.
2. Workers and personnel who are younger than 18 years of age are entitled to 30 days' recreational leave with pay.
3. Recreational paid leave for workers and personnel engaged in underground and heavy (arduous) work or in the kind of work that is harmful to health can be more than 20 days, provided that the total recreational leave per annum does not exceed 30 days.
4. Professors and teachers benefit from public (general) holidays of the educational and scholastic establishments.
5. Conditions for benefiting from recreational leave of more than 20 days will be set by legislative documents.

Article (63)

1. Workers and personnel benefit from annual recreational leave on the basis of the schedule (work chart) that is drawn up by the office with the consultation of the Council of Representatives.
2. If, due to the exigencies of the office, the worker could not benefit from annual recreational leave, then, subject to the agreement of both parties, such leave would be deferred to the following year, or the wages for the days during which work is done, in addition to the basic wage, would be paid to the worker.

Article (64)

The annual recreational leave period of the worker is not divisible, save in exceptional cases to be agreed upon by both parties in such a way that a part thereof be not less than ten days.

Article (65)

During his first year of service, a newly recruited worker would be entitled to recreational leave when he has already served in the office for 11 consecutive months. In exceptional cases for certain categories of workers (e.g. women before and after maternity leave, workers whose age is less than 18 years as well as other workers mentioned in relevant legislative documents), prior to the expiration of the 11 months, recreational leave can be granted in proportion to the period worked.

Article (66)

If the worker (member of staff) demands one month's wage as advance payment, it is paid to the worker at the time when he makes use of recreational leave.



Article (67)

If the worker has not utilised the whole or a part of the recreational leave and is separated or transferred from the relevant office, he would be entitled to the wage pertaining to the unused leave in proportion to the period of work done during the year. This wage would be paid by the former office in accordance with the provisions of paragraph 2 of article (63).

Article (68)

1. The worker is entitled to ten days' essential (urgent) leave with pay every year.
2. Essential leave in spread-about form, not exceeding three days, can be utilised through sending a notice and beyond that period through a written request.

Article (69)

1. The worker is entitled to 20 days' sick leave with pay each year.
2. Worker's sick leave for up to three days can be granted on the basis of a written notice.
3. If the worker's sickness lasts for more than three consecutive days, then a certificate of the medical doctor of the health institute and, in places without physicians, the certificate of the Head of the Executive Committee of the Council of Peoples Representatives and of the village headman, will be considered as valid certificates.
4. If the worker is covered by health insurance, the certificate of the physician of the insurance company is acceptable.
5. The worker's sickness period in excess of the period mentioned in paragraph 1 of this article, can be considered as a part of his other legal leave.

Article (70)

1. If the worker's sickness lasts for longer than the period mentioned in article (69) of this Code, additional paid leave can be granted to him if a certificate of the competent organs of the Ministry of Public Health is produced.
2. The conditions and the method of granting additional sick leave contained in the first paragraph of this article are drawn up according to a bill to be approved by the Ministry of Public Health with the agreement of the State Committee of Labour and Social Security, the Central Council of Traders Guilds (trade unions) of Afghanistan and the Economic Consultative Council.

Article (71)

1. The worker is entitled to 45 days' paid leave only once during his entire service period in order to perform Haj (Mecca) rites or to make pilgrimages to the sacred places.



2. The days in excess of 45 days earmarked for Haj and pilgrimage of sacred places can be considered as part of the worker's recreational and urgent leave.

3. The confirmation of the authority granting passport is the condition for making use of the leave for Haj and pilgrimage to the sacred places.

#### Article (72)

A newly recruited worker's annual sickness and essential leave is evaluated and granted in the following ways:

- (1) if the worker is employed in the first half of the calendar year, he would be able to make use of the annual leave fully;
- (2) if the worker is employed during the second half of the calendar year, then he can make use of 50 per cent of annual leave.

#### Article (73)

If, for good causes, the worker requires short-term leave, then, subject to the agreement of the office, he can utilise unpaid leave for one month maximum in a year. The worker's part will be retained for him during that period.

#### Article (74)

1. The worker's paid leave is computable according to the length of his (her) service.

2. The worker's unpaid leave is not computable according to his (her) service period, except the unpaid leave contained in paragraph 3 of article (132) of this Code.

### Chapter VII. Wages

#### Article (75)

1. The wage is paid to the worker according to the quantity and quality of work, with due regard to the rank, grade, post or profession, work period (apprenticeship for the work) as well as other conditions, taking account of the legislative documents.

2. It is not permissible to discriminate in the payment of wages on the basis of race, national, tribal or language affinity, gender, age, religion, properties, wealth, place of residence or social origin or station.

3. The minimum wage cannot be less than the amount fixed by the Government.

4. The monetary privilege of the educational certificate is considered as a part of wages.



#### Article (76)

1. The amount and conditions of payment of wages for the categories of workers and personnel are determined as follows, taking account of the provisions of article (75) of this Code:

- (1) in the case of the personnel of the government offices and those mixed enterprises in which the Government's capital share is more than 50 per cent, by the government in co-operation with the Central Council of Traders Guilds (trade unions) of Afghanistan, according to the specified tables;
- (2) in the case of the workers and personnel of the social organisations by the government according to their articles of association;
- (3) for workers of co-operative organisations, according to their articles of association by the office concerned, with the concurrence of the State Committee of Labour and Social Security and the Central Council of Traders Guilds of Afghanistan;
- (4) for the workers of private enterprises and those mixed institutes in which the Government's capital share is less than 50 per cent, by the institutes concerned with the concurrence of the Economic Consultative Council and the Central Council of Traders Guilds (trade unions) of Afghanistan with the co-operation of the State Committee of Labour and Social Security.

2. The wage level of the workers mentioned in parts (3) and (4) of paragraph 1 of this article, and separated and broken down in terms of each grade or rank, cannot be less than the minimum level fixed by the Government for workers of governmental organisations.

#### Article (77)

1. The workers are entitled to wages from the date of the signing of the contract or authorisation of appointment or engagement in carrying out their functions, as the case may be, unless it is envisaged otherwise in particular legislative documents.

2. The worker's wage is paid either on the basis of the time of work, i.e. monthly and weekly (time wage), or on the basis of the work done or goods produced (payment by result, piece-work).

3. In order to give financial incentives to workers, to raise the work output and to improve the quality of products, as the conditions demand, the office, with the agreement of the Council of Representatives, shall draw up the bills concerning the payment of wages and financial incentive for workers, develop the form of wage payment, and shall pay the worker's wage either on the basis of promotional time wage or promotional payment by result systems accordingly. The bills will be drawn up according to the sample rules which are, in connection with the forms and systems, set by the State Committee of Labour and Social Security with the agreement of the Ministry of Finance.



#### Article (78)

1. Some supplements are added to the basic wage in the following cases:
  - (1) in those cases where the work is done in regions with adverse natural and climatic conditions, and under economic and social hardships;
  - (2) in those cases where the work is done in underground sites or under arduous situations, and conditions harmful to health;
  - (3) in those cases where performance of the work involves the expertise of scientific personnel, or the technical and engineering skill;
  - (4) in other cases provided for in the legislative documents.

2. The conditions and the amount of wage supplements mentioned in paragraph 1 of this article and the manner of inclusion of the supplements in overtime wages will be drawn up in special legislative documents.

#### Article (79)

1. Hourly wage for overtime, as the case may be, is calculated on the basis of the hourly wage for ordinary work, and 25 per cent more than the wage for usual hours of work is also paid.

2. A worker who operates several machines or performs several tasks in the same office would, by virtue of the relevant legislative documents, be entitled to earn a higher wage.

#### Article (80)

The wage for the work done during public holidays would be double, provided that, at the worker's request, it were not compensated in form of a day's leave within two weeks.

#### Article (81)

The wage for night work is higher than that of ordinary work; the wage level of night work will be fixed by the Council of Ministers of the Democratic Republic of Afghanistan.

#### Article (82)

1. If a cessation of production occurs as the consequence of unpleasant or unforeseen accidents, or due to technical factors of production or to adverse climatic conditions, then the wage of the worker, with the exception of seasonal and daily paid workers, will be paid in the manner detailed hereunder:

- (1) in the event of stoppage, full wage for up to two months;
- (2) in the event of stoppage from two to four months, 50 per cent of the full wage;
- (3) after the expiry of four months, the office, with the agreement of the Council of Representatives, can transfer the worker to another task in



the same office or to another office, and if it is not found possible, can annul the labour contract and present the worker to the State Committee of Labour and Social Security.

2. If the worker is transferred due to the stoppage of work, as is stated in part (3) of paragraph 1 of this article, then in such a case the worker's wage cannot be less than the average basic wage of the last three months prior to the stoppage of work.

#### Article (83)

1. The wage is paid to the worker or to the person nominated by him in writing, in the worksite and during the period fixed in the collective agreement.

2. The wage payment is made in the same month, with due regard to the period stipulated in the collective agreement.

#### Article (84)

It is not permitted to deduct (withhold) from the wage, unless it is provided for in the Code.

#### Article (85)

Not more than 20 per cent can be deducted from the worker's monthly wage to compensate for damages, except when it is otherwise provided for in the Code (law).

#### Article (86)

During the period of discharging election, governmental and social duties which are, according to the law, done during working time, the worker's post and his average wage for the last three months plus the supplements of wages will be guaranteed.

#### Article (87)

When the worker is sent on missions, transferred, summoned from, or sent to, another place, he would be entitled to fares and travel expenses in accordance with the standards set by the Council of Ministers.

### Chapter VIII. Labour Standards

#### Article (88)

1. The person in charge of the office shall fix and extend the labour standards for all categories of workers in the field of national economy, and according to the guidance for standardisation method given by the State Committee of Labour and Social Security in co-operation with the Central Council of Traders Guilds of Afghanistan. Moreover, the person in charge shall subject the standards to periodic appraisals, and shall change the same



in conformity with progress in technical and scientific achievement, technical and organisational measures, progressive methods of work, rise in skill level as well as gaining of experience.

2. Measurement of wage and work performance or optimal planning of production functions and the increase of work efficiency, will be carried out on the basis of the labour standards contained in paragraph 1 of this article.

3. Unified and sample standards can be set for similar or homogeneous work in various fields of national economy.

#### Article (89)

1. The person in charge of the office, with the agreement of the Council of Representatives, shall revise and assess the existing standards, and apply new standards, as the case may be, according to sample standards to be set by the relevant central office with the agreement of the State Committee of Labour and Social Security of the Democratic Republic of Afghanistan and the Central Council of Traders Guilds (trade unions) of Afghanistan.

2. The office is obliged to inform the workers of the new labour standards at least one month before their application.

#### Article (90)

If any dispute arises between the office and the Council of Representatives as regards the setting of standards, then the issue will be settled by the following authorities:

- (1) in government offices, mixed offices (in which the government's share is more than 50 per cent), co-operatives and social organisations, by their superior organs, in co-operation with the State Committee of Labour and Social Security and the Central Council of Traders Guilds of Afghanistan;
- (2) in private and mixed enterprises (in which the government's share is less than 50 per cent), in co-operation with the Central Council of Traders Guilds of Afghanistan and the Economic Consultative Council.

### Chapter IX. Labour Discipline

#### Article (91)

The worker is duty bound to observe the internal rules and procedures of the office, to work honestly and fruitfully, to follow the labour discipline, to comply with orders and guidance of the office accurately and in a timely manner, to raise work efficiency, to improve the quality of the product, to observe production and technological discipline, work protection and safety technique rules and hygiene of the work environment, to protect the properties and assets of the office, to utilise them reasonably and economically, to raise professional skills and to apply the standards set by government authorities in co-operation with the Council of Representatives, to guard professional secrets in connection with production and administration, to refrain from using the secrets for his personal purposes, to encounter others



in an appropriate way, to observe the exigencies of collective work and to avoid molesting others in work and on the production site.

Article (92)

Labour discipline in the office is maintained and safeguarded through establishing conscious relations and attitudes among workers towards work, establishing methods for understanding and persuasion, encouraging workers to work honestly and, if the occasion demands, through the application of disciplinary measures.

Article (93)

The person in charge of the office is duty bound to set up a healthy work organisation, to establish favourable conditions for the promotion of work efficiency, to safeguard labour and production discipline, to observe provisions of this Code without any deviation, to comply with the rules of work protection and safety techniques, to seriously meet the wishes and needs of the workers, and to improve their living and working conditions.

Article (94)

1. The method of work organisation in the office is determined through internal work rules and procedures to be drawn up by the office with the agreement of the Council of Representatives.

2. The internal work rules and procedures of the Office are prepared on the basis of rules of ministries, government committees, offices and organisations concerned according to sample procedures drawn up by the State Committee of Labour and Social Security and the Central Council of the Traders Guilds (trade unions) of Afghanistan.

3. The person in charge of the office is duty bound to get workers familiar with the internal work rules and procedures, and to ensure that the latter are complied with.

Article (95)

1. In return for performing work in the best possible way, raising work output, of improving the quality of products, of saving materials, using initiative and innovation in work performance and of winning competitions at work, the worker will be encouraged and rewarded in the following ways:

- (1) granting a letter of appreciation;
- (2) granting a letter of acclamation;
- (3) awarding material benefits;
- (4) being introduced to the Council of Representatives of the primary organisation of traders guilds (trade unions).

2. Other kinds of encouragement are provided for in the internal work rules and procedures.



3. The method of encouragement of workers is drawn up in the legislative documents.

#### Article (96)

In return for rendering outstanding services in the worksite, workers will be introduced by the person in charge of the office to the relevant organs in order to receive honorary emblems, medals and insignia, as well as the title of the Champion of the Democratic Republic of Afghanistan, in accordance with the provisions of the relevant legislative documents.

#### Article (97)

The person in charge of the office will take recourse to the following punitive measures, as the case may be, when the workers violate labour discipline rules:

- (1) advice or suggestion;
- (2) warning;
- (3) deduction of subsistence (living) expenses;
- (4) abrogation of labour contract.

#### Article (98)

(1) If the worker failed to inform the relevant office in writing of his excuses for any absence without a good cause within three days after the date of such an absence, then he would be regarded as being absent without leave, and one day's wage would be deducted from his wages in lieu of each day of absence without leave.

2. If the worker mentioned in paragraph 1 of this article presents his excuses to the office concerned within 20 days, and, if the competent authority of the office is satisfied that the worker's failure to inform within three days was due to a good cause, then the worker will no longer be regarded as being absent without leave, and his days of absence without leave will be considered as a part of his legal leave.

3. If the worker's absence without leave lasts for more than ten days, then the matter will be registered in his file and will not be considered as a part of his service period.

4. If the worker reports for duty but leaves his duty without giving any written notice, then one day's wage will be deducted therefrom in lieu of each day of absence from duty.

5. The absence after the worker's legal leave would be covered by the provisions of paragraph 1 of this article.

#### Article (99)

It is permissible to abrogate a worker's labour contract, as a purely punitive measure, in the following cases:



- (1) absence for 20 consecutive days from work without good cause;
- (2) in the event that violation (infringement) is repeated after notices have been given for three times during six months.

#### Article (100)

When the office applies and imposes the punitive measures, it shall bear in mind the severity of the violation, the circumstances under which violations have been committed, the situation of the person when resorting to violation as well as the worker's service record, conduct and behaviour.

#### Article (101)

1. When the worker's violation (of the rules) is divulged, punitive measures will be taken (applied) directly against him within one month maximum after it is detected and within six months maximum after it is perpetrated.

2. Prior to the application of the punitive measures, the violator (offender) should be requested to furnish explanations.

3. Only one punitive measure shall be applied in each case of violation against labour discipline; the measure will be issued in writing, and after being registered, it will be formally brought to the notice of the offender.

#### Article (102)

Should the worker consider the punitive measure to be unjustified, he could lodge a complaint to the Dispute Settlement Commission.

#### Article (103)

1. If a period of six months elapses since the application of the measure without any new offence being committed by the worker, then the subsequent offence will be considered to have been perpetrated for the first time.

2. Prior to the expiry of the period stated in paragraph 1 of this article, the person in charge of the office can remove the effects of the punitive measures, provided that the worker does not commit any new offence and proves his competence.

#### Article (104)

Except for advice or suggestion, the written encouragement and punitive measures will be registered in the worker's accident record (book).



## Chapter X. The Worker's Financial Responsibility

### Article (105)

1. The worker is obliged to assume a responsible attitude toward the properties and assets of the office and to take measures to prevent damages from being inflicted.

2. The person in charge of the office is obliged to bring about ordinary working conditions for workers and to ensure full protection of assets used by workers.

### Article (106)

The worker will be held responsible for the damage sustained by the office during the work period only when the damage inflicted has been the result of his offence.

### Article (107)

The worker is wholly or partially responsible, as the case may be, for the damage he has inflicted on the office.

### Article (108)

The worker will not be held responsible for the probable damages arising from the ordinary progress of work.

### Article (109)

If the damage sustained by the office is due to the offence of several workers, then the amount of compensation therefor will be determined separately for each worker and in proportion to the type and degree of his responsibility.

### Article (110)

The kinds and degree of financial responsibility for the damage sustained by the office, the method of measuring and assessing the damage sustained and the arrangement of compensation therefor, will be determined by the legislative documents.

## Chapter XI. Provision of Health and Occupational Safety Standards (Conditions)

### Article (111)

Health and occupational safety standards are set (provided) in the office.



Article (112)

The person in charge of the office is duty bound to provide for occupational health and safety conditions, to use the safety technique equipment in order to prevent accidents due to work and production, and to bring about health conditions (set health standards) as a means of protection against occupational diseases.

Article (113)

1. When designing buildings, exploitation of production buildings, installations and equipment, as well as technical processes, technical and health standards shall be observed in order to protect workers from adverse and harmful effects.

2. Production rooms, other buildings used as workplaces and workers' restplaces should be made to conform and comply with environmental health rules and standards.

Article (114)

New production establishments and those establishments that have been restored or reconstructed are allowed to be put in operation only after the agreement of the bodies charged with technical and health supervision has been secured.

Article (115)

1. The regulations concerning main standards of occupational health and safety are drawn up by the State Committee of Labour and Social Security and the Central Council of Traders Guilds of Afghanistan.

2. The rules and standards of work protection and occupational safety in the sectors of national economy which are used by the office on the basis of the provisions in paragraph 1 of this article, shall be set by the State Committee of Labour and Social Security and the Central Council of Traders Guilds of Afghanistan.

3. The Ministry of Public Health, with the agreement of the State Committee of Labour and Social Security and the Central Council of Traders Guild of Afghanistan, will set and compile the health standards and hygiene rules of production in various sections of the national economy.

Article (116)

The person in charge of the office is obliged to give continuous training to workers about safety, health and firefighting rules and techniques, as well as other worker protection rules.

Article (117)

The workers are obliged to observe the rules and standards of work protection and the safety techniques, rules for utilisation of equipment as well as protection instructions, and to use individual protective devices while working.



Article (118)

1. In those types of work which are carried out under conditions harmful to health or where there is a special temperature or refrigeration or where there is the likelihood of contamination of workers, special clothes and footwear, masks and other protective devices as well as preventive and curative food materials will be put at the disposal of workers, free of charge, in accordance with set standards.

2. The person in charge of the office is responsible for supplying, maintenance, cleaning, sterilisation, drying and repair of special working clothes and other protective devices as well as for monitoring that these clothes and devices have been definitely used.

Article (119)

1. Those workers who are engaged in arduous work, in types of work carried out under conditions that are harmful to health and also the work connected with driving vehicles, must undergo periodic health and medical examinations during the service period in order to see that they are fit for work and to prevent occupational diseases.

2. The workers and personnel of food material industries, public catering establishments, transaction of food materials, as well as the workers and personnel of water supply installations, preventive and curative institutes, institutes concerned with children, other institutes, of other offices and organisations concerned with public works, must undergo the medical examinations provided for in paragraph 1 of this article in order to safeguard public health and hygiene.

3. The conditions and the manner of the medical examinations of workers will be drawn up and set by the Ministry of Public Health with the concurrence of the State Committee of Labour and Social Security.

Article (120)

In the event that untoward accidents and unexpected diseases occur at the worksite, the office would be obliged, as the case may be, to provide first aid at its own expense for the worker or, if the occasion demands, to transfer him to medical centres or to the place of residence for medical treatment.

Article (121)

In order to carry out medical examination and to provide first aid for workers and, to the extent possible, for the members of their families, a room(s) for first medical aid, mobile pharmacy shop, and health unit or centre shall be established in the office with due regard to the number of workers and personnel and in accordance with the standards set by the Ministry of Public Health.

Article (122)

1. If the worker's state of health requires that he should be engaged in lighter work, then, after the medical certificate has been presented, the office, subject to the worker's concurrence, will assign lighter work to him, either temporarily or permanently.



2. The wage of the worker mentioned in paragraph 1 of this article will be determined in the legislative document.

Article (123)

The person in charge of the office is duty bound to bring about, in conformity with medical certificates, the working conditions for the disabled persons.

Article (124)

1. The person in charge of the office is duty bound to investigate and assess statistically unforeseen accidents in work and production, and to analyse and evaluate the factors.

2. At the request of the injured party, the person in charge of the office will entrust the certified copy of the document concerning the unforeseen accident to the injured party, at least three days after termination of investigation and analysis.

Article (125)

Should the office refuse to make arrangements to provide documents or should the injured party disagree to record the circumstances of the unforeseen accident in the presence of witnesses, then the injured party can lodge a complaint with the Council of Representatives. The decision about the arrangements to provide documents will be taken by the Council of Representatives.

Article (126)

1. The office is obliged to pay compensation (damage) for disability or health injuries arising from work.

2. The list of occupational diseases will be prepared by the Ministry of Public Health with the agreement of the Central Council of the Traders Guilds (trade unions) of Afghanistan with the co-operation of the organs (agencies) concerned.

3. The amount of, and the arrangement for, the damage to be paid for disability (invalidity) and health injuries arising from work are made and fixed by the legislative documents.

Chapter XII. The Work of Women and Youths

Article (127)

1. It is not permissible for women and youths to be engaged in types of work that are physically arduous, or harmful to health or carried out in underground sites.

2. It is not permissible for women and youths to lift and transport weights that are more than fixed standards.



3. The list of work carried out under arduous conditions, the types of work that are harmful to health, the exceptional circumstances of work in underground sites, and the standards of weights to be lifted and transported, as mentioned in paragraphs 1 and 2 of this article, will be prepared and determined by the Ministry of Public Health, the State Committee of Labour and Social Security of the Democratic Republic of Afghanistan and the Traders Guilds (trade unions) of Afghanistan.

#### Article (128)

1. With the exception of the cases mentioned in paragraph 2 of this article, it is not permissible for women and youths to be employed in night work in the office.

2. Except for pregnant women, mothers with children of under 1 year of age and nursing mothers, other women can be employed as night workers in accordance with the shift work chart (schedule) and in rotation in hospitals, health clinics and, subject to their agreement, in those sections of the national economy, where an urgent need is felt.

#### Article (129)

It is not permissible to oblige and require pregnant women, mothers with children of under one year of age and youths to do overtime work, or to work during public holidays or to travel in order to do official work.

#### Article (130)

Women with children of from 1 to 7 years of age cannot, without their prior consent, be required to do overtime work or to travel in order to do official work.

#### Article (131)

During the period of pregnancy and on the basis of a doctor's certificate, women will be assigned lighter work, while receiving the wage applicable to their main jobs.

#### Article (132)

1. Women are entitled to 90 days' paid maternity leave and to other labour rights, two-thirds of which to be used after the birth of the child, and one-third of which either before or after the birth of the child.

2. In the case of unnatural delivery, birth of twins or more, the period of paid leave is extended by 15 days after the birth of the child, subject to the presentation of a medical certificate.

3. After the termination of maternity leave, the woman can ask in writing for leave without pay not exceeding 270 days.

4. This leave is considered in her service record for promotion of grade or rank, retirement as well as her other legal benefits and privileges. On the date when she reports for duty, she would be entitled to the same wage she used to earn before the birth of her child, and would be assigned to the same main job or its equivalent.



Article (133)

1. In addition to their rest and food periods, nursing mothers should be given other rest periods of not less than 20 minutes each once every three hours in order to give milk to (feed) their babies in the children's room at the worksite. These breaks are included in the working time.

2. The breaks in the office set forth in paragraph 1 of this article will be drawn up and decided by the internal rules and procedures, after taking account of the nature and conditions of their work.

Article (134)

1. It is forbidden to refuse to employ women or to reduce their wages because of pregnancy or nursing (feeding) their children.

2. It is not permissible to dismiss (lay off) pregnant women, nursing mothers and women with children of under 1 year of age, on the basis of a unilateral decision of the office, unless the office is completely dissolved.

Article (135)

1. The wage of the youth (young worker) would be paid in an amount equal to the wage of the workers of 18 years of age and more, with due regard to rank and grade, but regardless of the reduced working time contained in article 49 of this Code.

2. Per unit of work (piece-work), the wage of a worker whose age is less than 18 years is equal to that of a worker whose age is 18 years or higher. The wage difference due to reduced hours of work paid to a piece-worker who is younger than 18 years of age is based on his main grade.

Article (136)

1. The production standard of a youth worker is set on the basis of the production standard of a worker whose age is 18 years or higher, and proportional to the reduced hours of work as contained in article (49).

2. The office can set and fix the production standards of youths who have been employed as workers after having completed their studies or direct training at the worksite, provisionally as less than the predetermined standards.

Chapter XIII. Labour Disputes

Article (137)

If disputes arising from work are not settled by the office, then they shall be investigated and resolved by the following authorities:

- (1) the Labour Dispute Settlement Commission;
- (2) the Council of Representatives;
- (3) a competent court.



Article (138)

1. The composition of the Labour Dispute Commission, the method and time period of investigation of disputes by the above Commission and the Council of Representatives are dealt with by this Code and regulations.

Article (139)

Except in the case of those disputes that should, by law, be investigated by the courts, the Labour Dispute Settlement Commission is the primary organ for investigation of disputes.

Article (140)

The decision of the Labour Dispute Settlement Commission, which is taken by mutual consent of the parties, is binding and enforceable.

Article (141)

The Council of Representatives investigates labour disputes in the following cases:

- (1) if the Labour Dispute Settlement Commission could not have secured the agreement of the parties, then the worker would take recourse to the Council of Representatives so that it would investigate the disputes;
- (2) if the worker has submitted a written complaint (protest) against the correctness of the decision taken by the Commission.

Article (142)

A competent court will investigate labour disputes in the following cases:

- (1) in the light of the worker's claim who does not agree with the decision of the Commission, when the latter fails to secure the agreement of both parties. This question (issue) is applicable to an office in which there is no Council of Representatives;
- (2) in the light of a worker's claim who does not agree with the Council of Representatives' decision concerning the labour dispute;
- (3) in the light of the claim of the person in charge of the office who maintains that the decision of the Council of Representatives is incompatible with the binding laws;
- (4) in the light of the suggestion of the government agent based on the claim of either party maintaining that the decision of the Council of Representatives or that of the Labour Dispute Settlement Commission (in an office where the Council of Representatives does not exist) to be incompatible with the law;
- (5) in the light of the claim of either party or at the suggestion of the government agent if the labour dispute can, by law, be examined directly by the court, without any recourse to either the Labour Dispute Settlement Commission or to the Council of Representatives.



Article (143)

If the worker has been dismissed from work unlawfully (unjustifiably) and then, by virtue of the rulings of the Labour Dispute Settlement Commission or the Council of Representatives or the verdict of the court, he is reinstated (reappointed) in his former job, he will be paid the wage accruing to the period of his forced dismissal, based on the average monthly wage of the three months immediately preceding his dismissal.

Article (144)

The office shall enforce the binding decisions and settlements of the labour dispute authorities (fora) within ten days.

Article (145)

If the person in charge of the office did not enforce the decision of the Labour Dispute Settlement Commission or of the Council of Representatives within the period (deadline) set forth in article (142) of this Code, then the Commission or the Council of Representatives issues a confirmation order (order of enforcement) again for the worker. Should the office fail to enforce (apply) the final settlement of the court regarding the labour dispute, then the court would issue an order of enforcement. The confirmation orders of the Council of Representatives and the court will be enforced (applied) according to the law.

Article (146)

When considering and investigating labour disputes connected with financial (monetary) claims covering wage payment for leave of absence, the authorities mentioned in the article (143) of this Code can only render judgement (settle) about payment of the worker's wage not exceeding one year and also about the monetary compensation for the period of unused leave up to two years.

Chapter XIV. Trade Unions, Traders Guilds, Workers' Participation  
in Labour and Production Management

Article (147)

1. Workers enjoy the right to be trade union members (freedom of association). Trade unions are social organisations that are not registered in state organs.

2. The office is obliged to bring about conditions so that trade unions can discharge their functions within the limits set by the relevant articles of association.

Article (148)

1. The main functions and activities of trade unions consist of the following:



- (1) defence and protection of workers' rights in the field of work, production, livelihood and culture;
- (2) participation in planning and plan implementation for the development of the national economy, encouraging workers in the matter of work and production management and technical initiative, as well as assistance to consolidate and strengthen labour and production discipline;
- (3) exercising control so that work-related legislative documents, work protection rules and standards, safety techniques and housing and living services of workers are complied with;
- (4) participation in the administration of social insurance, sanatoria, rest places, as well as cultural, lighting and sport equipment;
- (5) participation in arrangement and implementation of progressive systems of wages and incentive regulations, supervision on the application of the Conventions of the International Labour Organisation (ILO) to which Afghanistan has adhered, application of scientific and progressive standards, control over the revision of labour standards.

2. The Central Council of the Traders Guilds (trade unions) of Afghanistan has, in its own field, the right to draw up the documents of standards within the limits set by law.

#### Article (149)

The office ensures the fulfilment of work and wage conditions, the application of work-related legislative documents and the use of social benefits with the co-operation and agreement of the Council of Representatives.

#### Article (150)

1. The worker enjoys the right to take part in the discussion and the solution of problems of production development and in social, cultural and living services, and to submit his proposals for work improvement to the office.

2. The worker's participation in work and production management is realised through trade unions, other social organisations, general assemblies and through other forms of activities of social initiative.

3. The office is obliged to bring about favourable conditions for the worker's participation in work and production management, to study his proposals and criticisms in a timely manner and to bring the decisions taken to his notice.

#### Article (151)

The office is obliged to allocate financial resources to the account of the trade union for the purpose of cultural and sport activities, and to set aside for the Council of Representatives a place and facilities free of charge for the furtherance of work and the holding of meetings by workers.



Article (152)

Those persons who obstruct the functions and activities of trade unions will be held responsible according to law.

Article (153)

1. The workers who are elected as members of the Council of Representatives will continue working and producing at the same time, and will not be dismissed (laid off) or subjected to disciplinary action without the consent of the above-mentioned Council.

2. The chief of the Council of Representatives and the person in charge of the trade union will not be dismissed (laid off), or subjected to disciplinary action, without the agreement of the superior organ of the trade union.

Article (154)

The reciprocal relationships between the Council of Representatives and the office are regulated and drawn up by the legislative documents.

Chapter XV. Social Security

Article (155)

1. Social security will be put into effect through financial participation of the office, workers and the Government.

2. The workers' financial share in social security decreases in proportion to the growth and development of the national economy, and reaches a stage where social security will be totally financed out of the budget of the Government, governmental institutes, social and co-operative organisations as well as mixed and private enterprises.

Article (156)

1. The workers, and in some cases members of their families will, out of the resources set forth in article (155) of this Code, benefit from the following social security provisions:

- (1) financial assistance to the worker on his retirement;
- (2) assistance to the worker when he is not capable of working;
- (3) assistance to the worker during the period of pregnancy and birth of the child;
- (4) financial assistance to the family of a deceased worker for shrouding and interment;
- (5) retirement pension due to old age, disease, disability, service period, death of a worker who supports (secures the means of livelihood of)



family and other cases as are envisaged and drawn up in special legislative documents.

2. Financial assistance will be paid out of the fund of the office and the pension out of the retirement treasury (fund).

#### Article (157)

1. Financial assistance to the worker on his retirement, equivalent to one month's salary.

2. Financial assistance (benevolent money) equal to three months' wages, based on the last wage, to the family of the deceased worker for the purpose of shrouding and burial service.

#### Article (158)

1. Assistance to the worker on account of his inability to work is rendered temporarily and until the time when he regains capacity to work or becomes entitled to retirement and in proportion to the (degree of) disability, provided that the period of incapacity to work does not exceed the period stated in articles (69) and (70) of this Code.

2. Financial assistance to the worker on account of his inability to work temporarily, equivalent to his supplementary wage.

#### Article (159)

Financial assistance (paid leave) is given on account of pregnancy and birth during the leave set forth in paragraphs 1 and 2 of article (122) of this Code.

#### Article (160)

1. Male workers retire when they have reached sixty years and female workers return when they have reached fifty-five years of age. Should the office feel the need, the service period of the workers who are capable of working can, subject to the concurrence of the worker, be extended for a further five years. Extension of the working period involves payment of the whole wage and fringe benefits of the worker.

2. For every five years' service in heavy and arduous work and for every five years' service in underground work or under conditions that are harmful to health, the worker's retirement age will be calculated to be respectively one year less and two years less than the standards set forth in paragraph 1 of this article.

#### Article (161)

1. Male workers and female workers can request retirement after having completed 25 years of work and 20 years of work respectively.

2. For every five years' engagement in arduous work, underground work or types of work carried out under conditions that are harmful to health, the



working period of the worker will be calculated as one year lower than the standard set forth in paragraph 1 of this article.

Article (162)

1. As a result of disability (infirmity) related to work, occupational disease or death arising from work or occupational disease, based on the attestation of the Health Commission confirming disability, the retirement pension is determined regardless of the service period.

2. The retirement pension of disabled persons whose disability is not due to occupational diseases will be determined on the basis of the attestation of the Health Commission taking account of the service period.

Article (163)

1. The worker can go on retirement while being sentenced to a term of imprisonment by the court.

2. The conditions of retirement, taking account of the term of imprisonment, and lifting of retirement of an imprisoned worker after his release, will be drawn up through the relevant legislative documents.

Article (164)

1. Depending on old age, service period, illness not connected with work, disability and death not connected with work, the worker's retirement pension is computed and paid as stated hereunder:

- (1) if the worker's service period is ten years or more, the payment made to him in the form of life pension would be equivalent to 40 per cent against ten years of service, and a further 2 per cent for each year in excess of ten years, based on the last monthly salary of the main rank or grade;
- (2) if the worker's service period is between one and five years, a lump sum equivalent to two months' salary against each year of service, based on the basic grade or rank;
- (3) if the worker's service period is between five and ten years, a lump sum equivalent to three months' salary against each year of service, based on the main grade or rank;

2. The worker's retirement salary according to the occupational disease, and disability and death resulting from work is computed and paid in the form of a permanent pension;

3. The worker's retirement pension cannot be more than 100 per cent of the salary of his last grade and rank.

Article (165)

1. If a person is, due to several aspects, considered to be entitled to several pensions, then one form of retirement pension will be paid depending on his option.



2. The pensioner's dependant survivors who are, because of several aspects, entitled to receive the retirement salaries, will benefit from all those salaries (rights).

#### Article (166)

The retirement pension of the retirees and the retirement pension of the survivors of the deceased, will be increased in proportion to the rise in the general wage level.

#### Article (167)

1. The State Committee of Labour and Social Security assigns jobs to partially disabled persons.

2. The office is charged with giving suitable jobs to partially disabled persons who are introduced according to paragraph 1 of this article, taking account of their rank and grade, ability to do work, specialisation and their professional skill.

#### Article (168)

The method of determination of pension, the mode of payment thereof and other forms of assistance contained in this Code are dealt with by legislative documents.

#### Article (169)

1. The office is duty bound to put food materials, coupons for means of livelihood materials and depreciable goods, or cash in lieu thereof, at the disposal of the worker.

2. During the worker's military service period, his family will be entitled to coupon privileges and will also benefit from health facilities.

3. The coupons for private enterprises are procured and distributed by the state organs. Private enterprises will pay the difference in their prices, based on the determined price, to the account of the Government.

### Chapter XVI. Inspection and Control of Compliance with Work-related Legislative Documents

#### Article (170)

Permanent inspection and control over observance of work-related legislative documents as well as on work protection and safety techniques rules are exercised by the state organs detailed hereunder:

- (1) the State Committee of Labour and Social Security, and the Central Council of Traders Guilds (trade unions) of Afghanistan, in the office;



- (2) local organs of authority and the government office in the office under jurisdiction, without private enterprises and mixed enterprises in which the Government's share is less than 50 per cent;
- (3) ministries and the government committees in the office under jurisdiction;
- (4) the Economic Consultative Council concerned, the Council of Ministers of the Democratic Republic of Afghanistan and its related agencies in private and mixed enterprises in which the Government holds less than 50 per cent of shares.

#### Article (171)

The inspection and control over observance of special rules at the worksite will be exercised by the specialised government agencies.

#### Article (172)

Labour inspection organs will be set up in the State Committee of Labour and Social Security and in the Central Council of Trade Unions of Afghanistan to enhance the control function over observance of work-related legislative documents and the rules of work protection and safety techniques.

#### Article (173)

1. Setting up, competence and functions of the labour inspection organ will be considered and drawn up in the State Committee of Labour and Social Security of the Council of Ministers of the Democratic Republic of Afghanistan.

2. Setting up, competence, jurisdiction and functions of the labour inspection organ of the trade unions will be considered and drawn up by the Central Council of Trade Unions of Afghanistan.

#### Article (174)

The person in charge of the office who violates the work-related legislative documents and the work protection bills and rules and the safety techniques or who does not put the collective agreement into force will be held responsible in accordance with the legislative documents.

### Chapter XVII. Final Provisions

#### Article (175)

1. The government organisation, mixed organisations in which the Government holds more than 50 per cent of the shares, co-operatives and social institutes cannot be closed down without the prior written concurrence of the State Committee of Labour and Social Security and the Central Council of Traders Guilds (trade unions).

2. The person responsible for private and mixed enterprises, in which the Government holds less than 50 per cent of shares, should inform the



Economic Consultative Council and the State Committee of Labour and Social Security two months before the closing down of the office.

Article (176)

This Code would not bar the office to grant to the worker, to the extent possible considering the financial and material means of the office, further privileges or other privileges not provided for in this Code.

Article (177)

In order to promote, protect and extend experiences in the work and protection sites, private enterprises can set up associations and unions within the limits set by this Code.

Article (178)

It is forbidden to establish private labour exchange (employment) bureaux.

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