

# **The System of Labour Administration in Suriname**

**Glenn Piroe**

International Labour Office - Caribbean

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First published 2006

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*The System of Labour Administration in Suriname*  
Port of Spain, International Labour Office, 2006

ISBN: 92-2-119136-2 & 978-92-2-119136-0 (print)  
92-2-119137-0 & 978-92-2-119137-7 (web pdf)

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Printed in Port of Spain, Trinidad and Tobago.

## Foreword

The rapid pace of change in the socio-economic world presents individuals and governments with new challenges, sometimes related to both threats and opportunities. Smaller economies and people living in them have hardly any impact in shifting the pace of change or the change itself. Nevertheless, economies, governments and social partners have to adjust their policies and strategies in order to survive.

This timely book will enable the society, the Government, and the social partners to evaluate that integral part of the Government dealing with the well-being of working people: *the labour administration services* to the national community.

Suriname ratified in 1981, the ILO Convention No.150 on *Labour Administration*, 1978. The roles and effective functioning of labour administration has been motivated by this standard. Growing awareness of the role, place and impact of the labour administration function in the national economy and the national socio-economic policy have changed the face of labour administration. An ongoing shift in the approaches of Government, employers, workers and other stakeholders will in itself mould the labour administration function into the instrument it should be. One of the most important overall functions of the labour administration is interestingly to advocate for change to influence Government, employers, and workers to adopt sound policies and practices in labour relations in the interest of the national community.

The drafting of *The System of Labour Administration in Suriname* was triggered by a similar publication of the ILO Subregional Office for the Caribbean, *The System of Industrial Relations in Guyana*, by its former Senior Specialist on Industrial Relations and Labour Administration. This publication is in keeping with the endorsement of the ILO Caribbean Labour Ministers' Meeting held in the Bahamas in April 2004.

Chapter 1 gives a short historic background of the institution of labour administration in Suriname. Chapter 2 includes some constitutional

provisions and statutory requirements and contains some specific aspects of the *labour relations* in Suriname. Chapter 3 outlines the general functions of the primary institutions of labour administration, including those residing within the labour ministry. Chapter 4 summarizes the principles of ILO Conventions ratified by Suriname; and Chapter 5 presents in summary, the principal provisions in several laws of the labour legislation.

This book will hopefully present evaluation opportunities for the labour administration. It will also be a useful guide for government agencies, employers, workers, investors and key players in the labour and industrial relations environment.

This book is written by Glenn Piroe, Head International Affairs of the Ministry of Labour, Technological Development and Environment and member of some tripartite organs within the labour administration.

Finally, I wish to express my appreciation to Glenn Piroe; Samuel J. Goolsarran, former ILO Senior Specialist, Industrial Relations and Labour Administration; officials of the ILO Subregional Office for the Caribbean; and our officials; for their commendable efforts in producing this handbook.

**Hon. Drs. Joyce D. Amarello-Williams**  
**Minister of Labour, Technological Development and Environment**  
**Suriname**  
**July 2006**

## Preface

The ILO Subregional Office for the Caribbean welcomes this publication on *The System of Labour Administration in Suriname* by its Ministry of Labour, Technological Development and Environment. The publication outlines the system in Suriname in terms of practice, policy, national law and international labour standards. It identifies the labour institutions and authorities created by statute; underscores the legal powers and responsibilities of public officials; examines the collective bargaining and dispute settlement procedures; and summarizes the main body of labour legislation.

This handbook aims to put in the hands of labour administrators, trade unionists, employers' representatives, practitioners of industrial relations, and general readers of industrial relations, a concise and authoritative documentation and guide to the labour administration system in Suriname. It will no doubt contribute to the promotion of sound industrial relations policies and practice that are informed by international labour standards.

I wish to congratulate the Ministry of Labour, Technological Development and Environment, for commissioning the publication in response to the endorsement of this project by the ILO Caribbean Labour Ministers' Meeting of April 2004 in the Bahamas. It marks an essential contribution in the field of labour administration in the context of the CARICOM Single Market and Economy.

I would like to extend special thanks to Glenn Piroe, Head of International Affairs in the Ministry of Labour and Technological Development, and Environment, for preparing this useful handbook and Samuel J. Goolsarran, former Senior Specialist, Industrial Relations and Labour Administration, ILO Subregional Office for the Caribbean, who reviewed the text and provided editorial guidance and support.

**Ana Teresa Romero, Ph.D.**  
**Director**  
**ILO Subregional Office for the Caribbean**  
**July 2006**



# Contents

<b>1. Background</b>	<b>1</b>
<b>2. General Considerations and Statutory Requirements</b>	<b>3</b>
2.1 The Constitution	3
2.2 Labour Relations	4
2.3 Trade Union Rights and Duties	5
2.4 Collective Bargaining Agreements and Standing Employment Conditions	6
2.5 Dispute settlement	9
2.6 Tripartite Consultation	11
<b>3. The Organization of Labour Administration Services</b>	<b>12</b>
3.1 The Government	12
3.2 The Minister of Labour, Technological Development and Environment	12
3.3 The Permanent Secretary	13
3.4 The Ministry of Labour, Technological Development and Environment	14
3.5 The Labour Inspectorate	15
3.6 The Inspector-General	16
3.7 Labour Inspectors	17
3.8 Labour Market Department	18
3.9 Legal and International Affairs Department	21
<b>4. Labour and related Institutions of the Ministry</b>	<b>23</b>
4.1 Labour Advisory Board	23
4.2 The National Board for Occupational Health	24
4.3 The National Labour Mediation Council	24
4.4 The Dismissal Board	25

4.5	The Foundation for Productive Work Units (SPWE)	27
4.6	The Foundation for Labour Mobilization and Development (SAO)	27
4.7	The Suriname Labour College (SIVIS)	28
4.8	The Board of Cooperatives (RACO)	29
<b>5.</b>	<b>ILO Conventions as National Labour Policy</b>	<b>31</b>
	The Ratification Procedure	31
A.	Basic Human Rights	32
	Freedom of Association	32
	Labour Relations	34
	Forced Labour	34
	Child Labour	35
B.	Employment	36
	Employment Policy	36
	Employment services and agencies	36
C.	Labour Administration	38
	Labour Inspection	38
	Tripartism	38
D.	Labour Relations	39
E.	Conditions of Work	39
	Wages	39
	General conditions of employment	41
	Paid Leave	42
	Occupational Safety and Health	43
	Protection in given branches of activity	43
F.	Social Security	44
	Comprehensive standards	44
	Protection in the various social security branches	45
G.	Employment of women	47
	Night Work	47
H.	Employment of children and young persons	47
<b>6.</b>	<b>Legislative Summaries</b>	<b>49</b>
6.1	The Civil Code	49
6.2	The Labour Code	55
6.3	The Collective Bargaining Agreements Act (CBAA)	60

6.4	Recognition of Labour Unions Decree	60
6.5	The Referendum Recognition of Labour Unions Decree	61
6.6	The Protection of Workers' Representatives Decree	61
6.7	The Industrial Accidents Act	62
6.8	The Occupational Safety and Health Act	64
6.9	The Safety Regulations	65
6.10	The Holidays Act	69
6.11	The Labour Mediation Act	70
6.12	The Labour Exchange Act	70
6.13	Dismissal Permits Act	72
6.14	The Work Permits Act	73
6.15	The Free Movement of CARICOM Skilled Nationals Act	74
6.16	The Penal Code	75
6.17	The Commercial Code	76
	<b>Bibliography</b>	<b>79</b>
	<b>Index</b>	<b>80</b>

## Acknowledgements

The labour administration system in Suriname is large and diverse, comprising staff of specialized competencies, skills and expertise, many of whom were consulted in the preparation of this book. They were:

Ms. S.R. Defares, Permanent Secretary

Mr. J.L. Belfor, Deputy Director, Legal and International Affairs

Ms. C. Hiwat, Deputy Director, Labour Market Department

Mr. R. Haverkamp, Director, SIVIS

Ms. J. Lapar, Deputy Director, SAO

Mr. A. Snijders, Counselor, SPWE

I wish to express my appreciation to Mr. Samuel J. Goolsarran, former Senior Specialist on Industrial Relations and Labour Administration, ILO Subregional Office for the Caribbean, for his review, comments and editing. I would also like to specially thank Ms. Julliette Karto for her secretarial assistance.

**Glenn Piroe**

## List of Abbreviations

AAC	Labour Advisory Board
BR	National Labour Mediation Council
CC	Civil Code
CBAA	Collective Bargaining Agreements Act
CSNA	Free Movement of CARICOM Skilled Nationals Act
DB	Dismissal Board
DNA	The National Assembly
LEB	Labour Exchange Bureau
HA	Holidays Act
I-G	Inspector- General
ILO	International Labour Organization
LEA	Labour Exchange Act
MOP	Multi Annual Development Plan
NRB	The National Board for Occupational Health
OSHA	Occupational Safety and Health Act
PS	Permanent Secretary
RACO	The Board for Cooperatives
RBG	Industrial Health Services
RLUD	Recognition of Labour Unions Decree
RRLUD	Referendum Recognition of Labour Unions Decree
PWRD	Protection of Workers' Representatives Decree
SAO	Foundation for Labour Mobilization and Development
SOR	Industrial Accidents Act
SER	Social and Economic Council
SPWE	Foundation for Productive Work Units



# 1.

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## Background

The development of labour administration in Suriname is closely linked to upheaval in the trade union movement during the second half of the twentieth century. Discontent related to low wages since 1959 led to a teachers' strike in 1966. While this situation remained unchanged, the policy towards an integrated approach resulted in the establishment of the Organized Consultation of the Federation of Senior and Mid-level Officials (FEHOMA) in the civil service. The unilateral amendment of education standards and disciplinary action against protesting members of the Teachers' Secondary and Higher Education Union (VALMEK) worsened the relations with the Minister of Education and the Government leading in 1969 to another strike by teachers, the biggest teachers' strike in the history of Suriname.

Prohibition of demonstrations and gatherings, closing of schools, disciplinary actions against teachers and prosecution and stoppage of wages of civil servants on strike were amongst the measures taken by the Government. As a result, 47 trade unions of the private sector expressed their feelings of solidarity with the actions of the teachers and civil servants. These 47 trade unions established the C-47 Vakcentrale, a federation which still exists today. Because of the pressure brought upon the Government, the Prime Minister, being also the President of the largest federation of trade unions, De Moederbond, and his team of ministers had to resign after approximately one month in office.

During the consultation regarding the formation of the new government following the elections, the trade unions expressed the importance of the institution of a Ministry of Labour. On 5 March 1969 the Ministry of Labour was established in Suriname. The President of the federation FEHOMA, Mr. A. Biswamitre became the first Minister of Labour. The official establishment and proclamation of the Ministry of Labour however, took place on 27 January 1970. The Labour Inspection Unit, which was part of the Ministry of Social Affairs and Immigration since 1946, became an important department of the new Ministry of Labour.

Like the first Minister of Labour, the majority of Ministers of Labour subsequently came from the trade unions, given the trade unions' involvement in politics and government of the relatively new Surinamese Labour Party (SPA) from 1987. In the pre-election period in 2000, technological development and the environment were relevant issues. These issues were addressed in the Policy Declaration 2000-2005 of the Government where the responsibility of a new *Ministry of Labour, Technological Development and Environment* was defined and proposed; and consequently created in 2002 by State decree.

Labour policy in Suriname is usually formulated for 5 years, which is the Government's term of office. The national labour policy is specifically expressed in the Policy Declaration of the Government. This part of the Policy Declaration is then specified in detail in the Policy Document of the Ministry of Labour for 5 years and contains measures and actions the labour minister intends to take in order to implement the national labour policy. The Multi Annual Development Plan (MOP) contains the outlines for social policy for 5 years.

An important part of the general labour policy is executed by way of adoption and enforcement of labour legislation. The labour legislation contains rules regarding areas such as working conditions, industrial relations and social security.

National labour policy includes laws enacted by the National Assembly (DNA), State decrees, presidential resolutions, and ministerial orders, and international labour conventions. In addition, the Constitution of the Republic of Suriname provides for the involvement of labour unions in the preparation of labour legislation (Article 31 paragraph 2a) in consultation with the Labour Advisory Board (AAC) on matters regarding labour legislation. It requires the involvement of labour unions in the preparation and the supervision of the implementation of social and economic plans (Article 31, paragraph 2c).

The Labour Ministry is entrusted exclusively with the task of supervising the observance of legislation protecting labour and workers. More specifically, the Labour Inspection Unit and its labour inspectors have, as one of the core obligations, to supervise and enforce the observance of legislation on the protection of workers by performing their lawful duties.

The Labour Ministry is also entrusted with the supervision and review of some forms of social security laid down in labour legislation such as payment during sickness, and benefits in case of occupational injury and diseases including medical care (Industrial Accidents Act).

## 2.

# General Considerations and Statutory Requirements

### 2.1 The Constitution

Some provisions of the Surinamese Constitution outline the importance of employment in the Surinamese society:

- The State shall provide for enough employment in freedom and justice (Articles 4, paragraph c and 24).
- Labour is the most important means of achieving wealth and individual human development (Article 25).
- Everyone has the right to work, according to his capacities (Article 26, paragraph 1).
- The right to work is closely related to the obligation to work (Article 26, paragraph 2).
- Everybody has the right to freely choose a job or profession according to existing rules (Article 26, paragraph 3).
- The State has to guarantee the right to employment by executing a policy to achieve full employment, prohibiting dismissal without reason or on religious or ideological grounds, securing equal opportunities in employment for both sexes and promoting vocational training (Article 27).
- The rights for all workers regardless of age, sex, race, nationality, religion or political belief including:
  - the right to pay, depending on quantity, quality and type of labour and experience, based on the principle of equal pay for work of equal value;
  - the right to perform labour under decent working conditions in order to enable individual human development;
  - the right to safe and healthy working conditions; and
  - the right to sufficient rest and recreation (Article 28).

- Special protection should be given to certain categories of workers such as pregnant women, minors, disabled persons and workers involved in high risk labour (Article 29, paragraph b).

The employment policy in Suriname is an integral part of the social and economic policy and the labour policy. The formulation of the employment policy in the Policy Declaration is based on the Election Programme – the declaration of policy intentions before the election – of the ruling party or parties after consultations with the social partners.

## 2.2 Labour Relations

Good industrial relations have always been important in the overall national policy and an evident pre-condition for social stability. Intensive consultations by new governments with several segments of the labour union movement and employers are essential for the preparation and formulation of the overall government policy in general, and especially, the socio-economic and labour policy.

The responsibility of the Government to foster good labour relations is motivated by constitutional provisions. The social objectives of the State, as outlined in the Constitution, include:

- the promotion of the workers' participation in decision-making in enterprises on production, economic development and planning (Constitution, Article 6, paragraph f);
- the freedom of workers to establish labour unions to promote their rights and interests (Article 30, paragraph 1);
- requirements for labour unions to be governed by principles of democratic organization and management, based on regular elections of board members by secret ballot (Article 30, paragraph 3);
- the right to conclude collective bargaining agreements (Article 31);
- the right of organizations of employers to promote and defend their rights and interests also (Article 32); and
- the right to strike, subject to legal restrictions (Article 33).

According to the State decree on the Terms of References of Departments of Government, the Labour Minister is responsible for the promotion of sound industrial relations and for the policy on the relationship between employers and workers, as well as for the supervision of the observance of the relevant legal regulations.

### 2.3 Trade union rights and duties

Trade union rights are laid down in Chapter VI of the Constitution on Social, Cultural and Economic Rights and Duties, and in the Collective Bargaining Agreements Act (CBAA), Recognition of Labour Unions Decree (RLUD), Referendum Recognition of Labour Unions Decree (RRLUD) and the Protection of Workers' Representatives Decree (PWRD).

Trade unions which are corporate bodies have:

- the exclusive right to conclude collective bargaining agreements and to amend or extend (CBAA, Article 1 and 3);
- the right to be assisted by the Permanent Secretary to conclude a new collective bargaining agreement or to amend or extend an existing one (CBAA, Article 1, paragraph 3);
- the right to bring claims for damages to the union or its members against the party or own members who act contrary to the provisions of the agreement (CBAA, Article 16, paragraph 1);
- the duty to furnish a copy of the concluded collective bargaining agreement to its members (CBAA, Article 5);
- the duty to submit a certified copy to the Labour Ministry (CBAA, Article 24 paragraph 1); and
- the duty to promote compliance with the provisions of the agreement by the members (CBAA, Article 9, paragraph 1).

Pursuant to Article 1 of the Recognition of Labour Unions Decree (RLUD), the employer is obliged and the labour union has the right to enter into collective bargaining with the employer if:

1. the union is a corporate body ;
2. the constitution /rules of the union empower it to conclude collective bargaining agreements; and
3. the union is recognized as the bargaining agent for the workers in an enterprise.

This means that only one collective bargaining agreement is concluded within one enterprise by one union. In case of more labour unions in one enterprise or justifiable doubt about the representation of one union, a referendum is concluded by the National Labour Mediation Council (RLUD, Articles 2 and 3).

The employer is then obliged to enter into negotiations with the union on collective bargaining agreements as certified by the National Labour Mediation Council.

Workers and employers without any distinction whatsoever have the right to establish and to join organizations of their own choosing without previous authorization (Protection of Workers' Representatives Decree (PWRD), Article 1), based on ILO Convention No. 87. Workers' and employers' organizations are free to draw up their constitution and rules, elect their representatives in full freedom, organize their administration and activities and to formulate their programmes (PWRD, Article 2). Based on ILO Convention No. 135, the PWRD guarantees protection to workers' representatives by prohibiting employers to take actions prejudicial to them because of their position as union officers, their union membership, or their participation in the labour union activities in pursuit of collective bargaining.

In pursuance of Article 4 of the Protection of Workers' representatives (PWRD), the employer shall provide adequate facilities to trade union representatives without impairing the efficient operation of the enterprise. This should enable the representatives to properly fulfill their union responsibilities.

The Collective Bargaining Agreements Act (CBAA) provides for protection to the labour unions against interference by the employers or their organizations. Labour unions under the domination of employers or their organizations are not considered as legitimate trade unions, if the establishment of the union has been promoted by employers or is supported by financial means of the employers or their organizations (Article 1, paragraph 2).

The freedom of association and peaceful assembly is protected in a special way: clauses in the collective bargaining agreement to restrict or deny this right are null and void (CBAA, Article 2, paragraph 2). The labour union is only responsible or liable for acts of members as far as such is stipulated in the collective bargaining agreement (CBAA, Article 9, paragraph 2). Dissolution of a labour union, party to a collective bargaining agreement, does not affect the rights and duties in the agreement (CBAA, Article 12, paragraph 1).

## **2.4 Collective bargaining agreements and standing employment conditions**

### *Collective bargaining agreements*

Collective bargaining agreements are widespread in Suriname. They are the expressions of a labour union and the progress made by employers' and workers' organizations in their cooperation, not only on matters relating to

working conditions but also on labour relations; they express the joint responsibility and commitment of both parties.

A collective bargaining agreement is, according to the law, an agreement concluded by one or more employers or one or more organizations of employers possessing legal personality, and one or more organizations of workers possessing legal personality, regulating exclusively or primarily working conditions to be taken into account when employment contracts are concluded (CBAA, Article 1, paragraph 1). Collective bargaining agreements in Suriname are usually concluded between one employer, one enterprise and a workers' organization representing the workers of the enterprise. Industry level collective bargaining is unknown in Suriname. Enterprises have separate employment agreements with their workers, which can differ greatly from other agreements of other enterprises in the same sector.

It is prohibited for parties concluding a collective bargaining agreement, to stipulate the following:

1. requiring the employer to only employ or to reject persons on the grounds of race, nationality, religion or membership of associations, including labour unions; and
2. restricting the right of workers to freedom of association and peaceful assembly (CBAA, Article 2).

The concluding of collective bargaining agreements or their amendment or extension takes place by officially certified public deeds or private instruments (CBAA, Article 4). A collective bargaining agreement can be concluded for the duration of three consecutive years. However, if no provision is made in the collective bargaining agreement for a definite period, it is considered to be in force for the fixed term but no longer than one year.

The Civil Code (CC) contains some provisions on the employment relationship to which exceptions or varying stipulations can be made only by means of collective bargaining agreements or standing employment conditions. The employer can only charge a fine if the relevant provisions and the fine are specifically mentioned in a written agreement or the standing employment conditions (CC, Article 1613, u paragraph 1).

A non-competition clause is only valid if it is part of a written agreement or the standing employment conditions (CC, Article 1613 x, paragraph 1). Collective bargaining agreements can extend existing minimum notice periods in the Civil Code (Article 1615 i, paragraph 5).

According to the Civil Code, the employee remains entitled to remuneration in case the employer is not able to redeploy the employee

who is willing to work (Article 1614 d, paragraph 1). Deviation from this rule is only possible by written agreement or standing employment conditions (Article 1614 d, paragraph 2).

A first fixed-term employment contract expires without the requirement of prior notice to terminate it. This is only required if stipulated in a written agreement or standing employment conditions (Article 1615 e, paragraphs 1 and 2.1).

Subjects included in most collective bargaining agreements are: lock-out by the employer; rules of strike by the employees; legal status of the employer (management, employment) and the union (functioning, recognition, contribution, representatives, free time for union activities without loss of remuneration); communication; employment security; dispute settlement procedures; financial contribution to workers' representatives training; human resources management; job description; union membership; medical testing; safety and health; uniforms; transportation; transfer; employment contract; termination; temporary staff; work organization; code of conduct; personnel data; training; ancillary function; confidentiality; working time; overtime; finance (salary, performance incentive, holiday pay, pension, sickness, invalidity, study); and disciplinary measures.

### *Standing employment conditions*

Standing employment conditions are additional conditions to the collective bargaining agreement or to an employment contract. The workers have to express their acceptance or non-acceptance of these conditions (Civil Code, Article 1613 j, paragraph 1). If not intended to function as such, the standing employment conditions are mere unilateral instructions of an employer in pursuance of his relationship of authority. Non-acceptance of a new standing employment condition or an amendment can be considered as a notice of termination of the employment by the worker (Civil Code, Article 1613k, paragraph 2).

According to Article 1613j of the Civil Code, standing employment conditions should satisfy the following requirements:

1. the conditions should be in Dutch;
2. the workers have to declare whether or not to accept them;
3. a full copy should be given free of charge to every worker;
4. the conditions should be submitted to the court registry for public inspection;
5. the complete text of the standing employment condition should be made clearly visible on the industrial premises which are easily

- accessible; and
6. the standing employment conditions are not in contradiction with the employment contract.

## 2.5 Dispute settlement

The Labour Mediation Act establishes within labour administration, the National Labour Mediation Council (BR) to deal with the settlement of labour disputes. The BR has the task to promote the peaceful settlement and the prevention of labour disputes, which means any dispute between workers, and one or more employers regarding labour matters.

The BR can exercise the following functions:

- mediation/conciliation;
- arbitration;
- assistance to arbitration tribunals of the parties concerned; and
- advisory service.

### *Mediation/conciliation*

Disputes resulting in or with the possibility of strikes or lockouts are the more relevant disputes. According to the law, the District Commissioner of the district in which the employer's business is located, has to report such disputes to the National Labour Mediation Council (BR). Interested parties, including workers or employers engaged in such disputes, or their organizations possessing legal personality, can also request the BR to intervene.

The involvement of the union is not possible in cases where the worker has been a member of the union for less than three months. The BR only intervenes upon request, if the dispute is considered serious and substantial. Otherwise, the BR informs the parties concerned and offers its advisory services.

The BR refrains from (further) intervention by mediation/conciliation of a dispute if:

1. parties have made provisions for their own mediators, mediation committees or arbitrators except when it is evident that that intervention will not lead to a speedy resolution;
2. the dispute is incited by one of the parties in order to induce the other party to deviate from an existing collective bargaining

agreement or judgement of an arbitrator, mediation committee or mediator; and

3. the dispute is subject to a lawsuit.

The BR has the power to request workers, employers or the board members of their organizations possessing legal personality, or witnesses and experts to appear before the BR. Upon request, these persons are obliged to appear before the BR. If the BR resolves the dispute, a deed is prepared and signed by both parties and the members of the BR.

### ***The National Labour Mediation Council as an arbitration tribunal***

Parties involved in a dispute can agree to abide by the award/judgment of the BR as an arbitration tribunal. They notify the BR of such intentions and request the BR to serve as an arbitration tribunal.

A deed has to be prepared on the agreement by parties to abide by the award/ruling of the BR as arbitration tribunal containing certain particulars required by the Labour Mediation Act (Article 18), including the declaration of parties to abide by any award/ruling of the BR regarding any dispute.

### ***The National Labour Mediation Council assisting arbitration tribunals of parties***

In case of a dispute, relevant parties can request the involvement of an existing arbitration committee, which is already established by them. They can also establish a committee to resolve a dispute, which has arisen between them. The chair of the BR can render assistance to the parties.

A deed has to be signed by the parties in the presence of the chair of the BR containing similar information as if BR was arbitrating the matter. The chair of the BR supervises the arbitration process of the committee, and approves the voluntary withdrawal of an arbitrator. The chair also relieves an arbitrator from his responsibilities if he/she has difficulty in the speedy resolution of the dispute.

When parties are not able to agree on the arbitration committee, the chair of the BR provides other persons to serve on the arbitration committee. The chair of the BR decides, in case of a challenge of an arbitrator by one party, if the chair of the BR does not appoint him/her. According to the Labour Mediation Act, the chair and members of the BR are not allowed to act as members of arbitration committees. The chair of the BR can obtain additional information for the committee and has the power to hear persons

under oath if necessary. Awards/judgements of such arbitration committees are binding on all the concerned parties.

### ***The advisory function of the National Labour Mediation Council***

The National Labour Mediation Council can, on the request of workers and employers, give assistance regarding collective bargaining agreements, to promote good industrial relations or prevent disputes.

## **2.6 Tripartite Consultation**

Suriname ratified in 1979 ILO Convention No. 144 on *Tripartite Consultation (International Labour Standards)*, 1976. Although this Convention specifically concerns the tripartite cooperation on standards of the ILO, its ideology and the use of the term “tripartite” – known to the Surinamese society since the colonial period – impacted on the whole spectrum of labour within the labour administration.

The positive experience with existing tripartite institutions in Suriname motivated the legal establishment of a high level institution of social dialogue, the constitutional Social and Economic Council (SER), a body for wider economic and social policy issues which can lead to tripartite or bipartite agreements. The SER consists of representatives of government and the social partners - trade unions and employers and their organizations, and other interest groups in civil society.

Although most of the tripartite institutions within the labour administration are autonomous legal entities, the labour ministry completely or partially provides for the financial needs. Furthermore, the highest organs within the institutions – the supervisory boards - are accountable to the labour minister, who appoints his/her representatives to these organs. The labour minister also gives policy guidance, and facilitates the effective and efficient functioning of these institutions.

# 3.

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## The Organization of Labour Administration Services

### 3.1 The Government

The Republic of Suriname is a democratic State based on the principles of sovereignty of its people, and respects and guarantees fundamental principles and rights. The National Assembly –the legislature, representing the people of the Republic of Suriname- is the Highest Organ of State with 51 elected members. The people directly elect these members. The National Assembly and the Government exercise the legislative power together.

The Government consists of the President, the Vice-President and the Council of Ministers. The Council of Ministers is the highest executive and administrative organ of the Government headed by the Vice-President who is accountable to the President. The President is Head of State and Head of Government and is accountable to the National Assembly. The National Assembly elects the President and the Vice-President for 5 years. The President is constitutionally empowered to appoint the Council of Ministers after consultations based on the elections, and can remove any of them from Office.

### 3.2 The Minister of Labour, Technological Development and Environment

The Terms of Reference of the Ministry of Labour was officially first proclaimed on 27 January 1970 by State decree. While this State decree has been amended several times, the terms of reference regarding labour remained unchanged. According to this State decree, which was amended in 2002, the Minister of Labour, Technological Development and Environment is responsible for the Ministry of Labour, Technological Development and Environment. The Minister, in order to fulfill the tasks of the Ministry, is by

law entitled to create organizational structures with heads of departments and service units with the approval of the Council of Ministers. The Minister is also by law entitled to:

- appoint, suspend and dismiss personnel;
- grant subsidies, contributions, gratifications, indemnifications, compensation, salary increase and bonus;
- decide on other matters regarding the key tasks the Labour Ministry is entrusted with and which does not explicitly require the approval of the Council of Ministers or the President;
- assign major responsibilities to senior officials after approval by the Council of Ministers;
- grant permit for overtime work exceeding certain limits and beyond the power of the Inspector-General;
- decide on appeals against decisions of the Labour Inspection regarding the Labour Code (Labour Code);
- grant dismissal permits via the Dismissal Board, or in the case of dismissal on urgent grounds, to object (Dismissal Permits Act);
- order the closure of enterprises hesitating or objecting against submitting evidence regarding obligations of employers' liability insurance on occupational accidents and diseases (Industrial Accidents Act);
- register collective agreements and any amendments and termination of collective bargaining agreements (Collective Bargaining Agreements Act); and
- decide on appeals concerning refusal of work-permit applications (Work Permits Act).

### **3.3 The Permanent Secretary**

The Permanent Secretary (PS) gives policy direction to the operational activities of the Labour Ministry, in addition to some special tasks and responsibilities in keeping with labour laws such as to:

- grant exemption from the prescribed manner of taking leave (Holidays Act);
- decide on disputes regarding holidays or pay on holidays (Holidays Act);
- grant or withdraw permits on the engagement of some machines and equipment in enterprises (Occupational Safety and Health Act);
- seal and unseal machines and equipment, deemed to be hazardous for the safety and health of workers (Occupational Safety

and Health Act); and

- grant and withdraw work- permits (Work Permits Act).

### **3.4 The Ministry of Labour, Technological Development and Environment**

The Ministry of Labour, Technological Development and Environment (the Labour Ministry) has the legal mandate to:

- implement all matters regarding responsibilities of the Minister by virtue of contract;
- implement all matters the Ministry is specifically entrusted with;
- prepare legislation regarding matters of the Ministry, in close cooperation with the Ministry of Justice and Police;
- implement education and training programmes for the departments or services of the Ministry which are not the responsibility of the Ministry of Education and Public Development; and
- implement the government labour policy and related development plans.

According to the State decree on the Terms of References of Departments of Government, the Ministry of Labour, Technological Development and Environment is entrusted with the following 10 specific tasks regarding labour and related issues:

1. to formulate and implement policy on the industrial relations between employers and workers and their organizations, and to supervise the observance of relevant rules;
2. to secure the observance of legislation regarding labour protection and labour inspection;
3. to supervise the legal regulations on employment placement;
4. to formulate the labour market policy and increase employment in cooperation with other relevant ministries;
5. to formulate the policy on cooperatives in consultation with other ministries;
6. to register the active labour force and formulate work permit policy in collaboration with other ministries;
7. to further training and re-training of the workforce in cooperation with the Ministry of Education and Public Development;
8. to regulate and enforce the observance of legislation on labour disputes;

9. to maintain contacts with and promote the observance of legal regulations on employers' and workers' organizations and to promote sound industrial relations; and
10. to formulate the policy on wages.

The Ministry of Labour was restructured in 1994 with the following departments, units, and functions:

### **3.5 The Labour Inspectorate**

The Labour Inspectorate in Suriname existed long before the idea of a Ministry of Labour, which came into existence in the late sixties. The first integrated legal regulation of the Labour Inspectorate – the Labour Inspection Decree – however came in effect in 1983, officially establishing the Labour Inspectorate. According to the Decree, Labour Inspection is directed by the Chief Labour Inspector, also known as the Inspector-General (IG), under general direction of the Minister of Labour, Technological Development and Environment (the Labour Minister). In order to organize the Labour Inspection services, the country is divided in 3 regions, each under supervision of a head. Each region provides Social and Safety Inspection services. These heads and the labour inspectors are civil servants of the Labour Inspectorate and are permanent employees of the Government under the control of the Inspector-General.

The Labour Inspection Decree entrusts the Labour Inspectorate and the labour inspectors with the following tasks:

1. to supervise and enforce the observance of legal regulations regarding conditions of employment and the protection of employees performing duties;
2. to provide information and technical advice to workers and employers on the most effective means to observe legal regulations;
3. to report to the competent authorities, abuses and faults not covered by existing legislation; and
4. to ensure the observance of the relevant provisions of the Decree, and investigate reported accidents and diseases.

The Social Inspection of each region has the specific duties:

1. to supervise and to enforce the observance of legal conditions and terms of employment;
2. to make inquiries and to grant permission regarding safe working hours, overtime work and night work; and

3. to supervise the observance of arbitration awards, and collective bargaining agreements.

The Safety Inspection is entrusted with the following important tasks:

- a. to supervise and to enforce the observance of the technical aspects of the labour law on safety; and
- b. to advise the District-Commissioner of each district accordingly.

The Labour Inspectorate consists of three staff units/bureaus:

1. The Legal Bureau gives legal advice regarding labour legislation, prepares and drafts bills and revisions of labour laws, and determines whether on the spot dismissals are legitimate and reports to the Inspector-General.
2. The Medical Bureau is entrusted with the task of protection of the health of workers and the prevention of industrial accidents and occupational diseases. This Bureau is also responsible for periodical medical examination of workers employed in situations likely to be harmful to their health, and prepares research for the Industrial Injuries Committee in cooperation with others involved in labour protection such as Industrial Health Services (RBG).
3. The Research Bureau provides reports on studies relating to issues on non-routine safety inspections in enterprises.

### **3.6 The Inspector-General**

The Labour Inspectorate is headed by an Inspector-General (IG) under the general direction of the Minister of Labour, Technological Development and Environment. The Labour Inspection Decree outlines the tasks of the Labour Inspectorate and labour inspectors. Prior to the enactment of the Labour Inspection Decree of 1983, labour laws explicitly stated the discretionary powers of labour inspectors and the Inspector General as in the Labour Code and the Industrial Accidents Act.

These powers include the right for the Labour Inspector to investigate breaches of the law, and the right to enter workplaces by day or night for inspection purposes.

The powers of the Inspector-General (IG) are to:

- grant general or special permits or authorization for overtime work (Labour Code);
- require longer breaks for certain categories of work or grant exemption or permission for different regulations regarding the

- obligatory break (Labour Code);
- grant general or special permits for irregular working hours (Labour Code);
- exempt from the prohibition of child labour or labour by young persons (Labour Code);
- receive obligatory notification of working hours, shifts etc., or exempt from this obligation (Labour Code);
- receive information on dismissals on urgent grounds and to object or agree (Dismissal Permits Act);
- facilitate the transition of periodical benefits in lump sum in case of invalidity caused by industrial accidents (Industrial Accidents Act);
- register the obligatory notification of industrial accidents and diseases (Industrial Accidents Act);
- investigate notices of appeal against the determination of the existence of an accident or disease as prescribed, or of complete or partial invalidity (Industrial Accidents Act).

Other responsibilities/duties of the Inspector-General according to the Labour Inspection Decree are to:

- process the decision of the Labour Minister in case of appeal against prohibition of labour in some parts of the workplace or certain duties;
- give instructions on information to be contained in the annual labour inspection report; and
- present an annual report to the Labour Minister regarding inspection activities and publish such reports.

### **3.7 Labour Inspectors**

Labour inspectors also have the following duties, obligations and powers in accordance with the Labour Inspection Decree to:

- refrain from commercial participation in companies subject to their inspection;
- observe secrecy, also in case of inspection resulting from complaints;
- enter without prior notice, workplaces at all times subject to inspection and to make official reports within 24 hours;
- do enquiries, investigations and surveys regarding the observance of labour legislation including interviewing of employers and employees;

- request legally prescribed documents for inspection, demand certain written notices and take samples of tissues or substances in use for analyzing purposes;
- order adaptation in company procedures to bring them in conformity with legal requirements;
- make recommendations to employers' and workers' representatives and to advocate observance of their bilateral agreements;
- order orally or in writing, cessation of work in certain parts of the workplace or certain activities deemed to be hazardous to safety or health and to revoke such orders; and
- take measures regarding the previous order including the sealing of machines, equipment, and spaces.

### 3.8 Labour Market Department

The Labour Market Department is under the direct supervision of the Permanent Secretary, and has the following tasks:

- to coordinate, prepare and implement the labour market policy;
- to coordinate the relations concerning the labour policy with the relevant national and international institutions;
- to collect, process and publish labour statistics;
- to prepare policy regarding short-term interventions in the labour market;
- to train and retrain the active and inactive labour force in collaboration with relevant institutions in keeping with the labour market policy;
- to coordinate the preparation of the income policy especially the policy on wages in collaboration with relevant institutions; and
- to coordinate the supporting activities of the labour ministry regarding the tripartite determination of the labour policy (employment policy and income policy).

The Labour Market Department consists of the following **units**:

- I. Labour Market Analysis;*
- II. Labour Statistics;*
- III. Employment Agency; and*
- IV. Labour Market Development.*

I. The general aim of the **Labour Market Analysis Unit** is to frequently analyze data on income, wages and macroeconomics in order to facilitate

an integrated labour market policy; and is entrusted with the task to:

- continuously follow the trends and developments of wages and prices and macroeconomic indicators especially those relevant to the employment policy and manpower planning, and periodically publish analysis on these matters;
- produce estimates and projections regarding the employment and income policy; and
- analyze data in order to make recommendations on the income and employment policy on the short or longer term.

**II. The Labour Statistics Unit** aims to:

- adequately organize labour statistics;
- coordinate the management of information and data of the labour ministry;
- collect, process and publish data produced by other research centres (e.g. General Bureau for Statistics); and
- build the capacity of the Labour Ministry to process labour data efficiently.

The Labour Statistics Unit also:

- produces and maintains a register of industry with the assistance of the Labour Inspectorate and other relevant institutions;
- publishes information regarding this register;
- does research on the supply and demand of labour;
- produces and publishes labour statistics;
- does random surveys and research periodically or on a needs basis, on specific issues concerning the labour market; and
- assists other entities of the Labour Ministry involved with the setting up and maintenance of data files.

III. The general aim of the **Employment Agency Unit** is to continuously match the supply and demand of labour by offering its services to job seekers and employers, and also executes the policy on foreign workers by issuing work-permits. The Employment Agency Unit consists of the Labour Exchange Bureau and the Work Permit Section.

*The Labour Exchange Bureau* is assigned to:

- draw up vacancies and the qualifications necessary;
- register job seekers, their categories, and the working population;

- mediate between jobseekers and employers;
- give information on choice of employment relating to vocational training skills;
- assist the application of the legislation on job placement;
- promote employment consistent with a balanced labour market policy;
- maintain relations with employers and other authorities concerning employment placement and good labour relations;
- support and motivate job seekers; and
- give information on the situation of the labour market.

### *Vocational guidance*

The Labour Exchange Bureau enables job seekers and employers to identify suitable jobs and to conclude employment contracts. It gives information on the choice of employment concerning vocational training, and provides guidance and counselling support to jobseekers. It also gives information on the situation of the labour market, and assists jobseekers and students with their career planning.

The *Work Permit Section* has the following duties:

- advises on the work permit policy;
- maintains relations with the Labour Inspectorate;
- issues work permits after inquiry and consultation with the concerned authorities;
- communicates with relevant authorities on the grant and issue of work permits;
- gives information about legal and other regulations with regard to work permits;
- follows the situation on the labour market in respect of the needs of migrant workers and the assessment of the problems of these workers on the labour market; and
- periodically determines the need for foreign workers in the labour market.

IV The **Labour Market Development Unit** has the objective of preparing policy measures focused on a sound matching of supply and demand of labour in the various sectors of the Surinamese labour market; and the task to prepare the labour market policy, including:

- employment policy;
- the policy on unemployment and assistance to small entrepreneurs

- and cooperatives;
- the policy on training and re-training of working and unemployed persons;
- the incomes policy, especially the wages policy in collaboration with other institutions;
- the policy on women, youth and the disabled in the labour market by enabling decent work;
- elimination of under-employment and assist small enterprises and cooperatives;
- policy regarding women, young persons and disabled persons; and
- policy on assistance to small entrepreneurs and cooperatives.

## **Review**

The review function of the employment policy is shared among several units in the Labour Market Department. The review consists of an assessment and analysis of the trends and development of wages and prices and the publishing of this together with estimates and projections on employment and income policies. Research on the supply and demand of labour and production, and publication of labour statistics and processing of data produced by the Labour Statistics Department are also related to the review function. Another task within the review function is the conducting of random survey research on issues concerning the labour market (e.g. child labour, wages).

### **3.9 Legal and International Affairs Department**

The Under Directorate of Legal and International Affairs Department, which reports to the Permanent Secretary, consists of the following three units:

- Labour Legislation;
- Collective Bargaining Agreements Registration; and
- International Affairs.

The duties under Labour Legislation are to:

- prepare or draft national and international labour regulations mainly regarding the revision of the labour laws;
- evaluate regularly the application of labour laws to trigger legislative changes;
- provide information and advice to workers and employers on the application of labour laws;

- give legal advice within the labour ministry; and
- summarize arbitration awards of the National Labour Mediation Council.

The Collective Bargaining Agreements Registration Unit:

- registers collective bargaining agreements as required by the Collective Bargaining Agreements Act (G.B. 1962 No.106);
- ensures that collective bargaining agreements are in keeping with the law; and
- provides legal assistance on the drafting of collective bargaining agreements.

International Affairs Unit is entrusted with the responsibilities to:

- coordinate all contacts with international organizations including the ILO, OAS, CARICOM and with states, concerning conferences, seminars etc.;
- coordinate official relations with the labour ministry with embassies in Suriname as well as abroad, and with international organizations in Suriname;
- liaise with relevant department(s) of the Ministry of Foreign Affairs and other ministries;
- prepare requested reports to the ILO on labour issues in consultation with the union confederation Ravaksur and the employers' organizations VSB and ASFA; and
- report on development of projects financed by other countries or international organizations.

## 4.

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# Labour and related Institutions of the Ministry

### 4.1 Labour Advisory Board

The Labour Ministry in Suriname has a long tradition of tripartite consultation on national labour policy and on labour administration services in keeping with ILO standards. Its Labour Advisory Board (**AAC**) is a tripartite advisory body established to advise the Labour Minister after consultation with the social partners on labour matters. The Board may provide advice as requested by the Minister or on its own initiative. Specifically the AAC seeks:

- consensus on the views of the employers, workers and government on labour matters; and
- advice on the preparation and adoption of labour legislation, and the practice of good industrial relations.

The AAC, which is appointed for two years:

- has the power to establish sub-committees consisting of members or even non-members in order to prepare its recommendations/ advice: (existing committees within the AAC are the ILO and CARICOM committees);
- consists of 4 representatives each of government, trade unions and employers along with a deputy member to each member, all of whom together with a Chairman, are appointed by the Minister;
- accommodates minority opinions in its report; and
- receives the feedback from the Labour Minister regarding any advice tendered.

While the AAC's advice is not binding, the Labour Minister submits draft labour legislation to the competent legislative authorities, only after consultation with the AAC. When requested, the AAC expresses its views within 30 days, inclusive of any minority views. Government agencies, legal

entities and civilians are obliged to give relevant information to the AAC if requested. They are also obliged to appear before the AAC in case of hearings.

#### **4.2 The National Board for Occupational Health**

The National Board for Occupational Health (NRB) is a multipartite board, consisting of members from the Labour Ministry, Ministry of Public Health, representative organizations of employers and of workers, non-governmental organizations and medical professionals.

The general objectives of the NRB are to further develop and improve occupational health. The NRB achieves these objectives by:

- a. advising and proposing draft guidelines and legislation to the Government, via the labour minister, regarding occupational health;
- b. submitting to the Government via the Labour Minister, reports analyzing the occupational health status in Suriname and the functioning of relevant institutions;
- c. developing strategies on education, information and the national and international cooperation;
- d. formulating a national programme on occupational health and evaluating its effectiveness and efficiency; and
- e. considering questions regarding the need for training etc. and for national and international cooperation.

The NRB reports to the Labour Minister who may give it general direction.

#### **4.3 The National Labour Mediation Council**

The principal administrative organ entrusted with the task to intervene in and settle collective labour disputes in Suriname is the National Labour Mediation Council (BR). When a labour dispute cannot be resolved by negotiations between an employer and a labour union representing workers, this dispute is submitted for mediation to the National Labour Mediation Council.

According to the Labour Mediation Act of 1946, the National Labour Mediation Council also serves as arbitrator at the request of the parties, and its awards are binding on the parties and concerned workers. The Council can also be requested to appoint an arbitration commission to settle a dispute; its judgments/awards are also binding to parties.

The National Labour Mediation Council (BR) conducts the mediation and arbitration function within the system of labour administration.

The Council consists of seven members including a chairman, who is entrusted with certain discretionary powers under the Labour Mediation Act. Although not specifically mentioned in the Labour Mediation Act, the National Labour Mediation Council has a tripartite composition, given the role of the social partners in the establishment of the BR.

### **4.4 The Dismissal Board**

The Dismissal Board (DB), which was officially established in 1986 under the Dismissal Permits Act of 1983, has the task to receive, process and to decide on the obligatory written application, on the prescribed form for a permit, to terminate a contract of employment (dismissal permit). According to the Dismissal Permits Act it is not allowed for an employer to terminate the employment relationship without the dismissal permit. This prohibition does not apply in cases of termination by mutual consent; termination *ipso jure*; termination on urgent grounds (serious misconduct); and termination during probationary period.

The DB consists of five or seven members among which is a chairman, a vice chairman and a secretary, all of whom are appointed, and can be dismissed by the Labour Minister. The Board is required to decide within 30 days after receipt of the applications, which are to be in conformity with the law. The dismissal permit is considered granted when the Board does not decide within the prescribed 30 days. The DB is legally obliged to hear both parties - the employer and the worker and the trade union concerned before deciding on the matter. Their lawyers or advisors can accompany them. All decisions, especially those rejecting the application, should be written with reasons for the rejections.

The Labour Minister may give instructions to the DB officially by ministerial order. In 1994 he instructed the DB regarding the following matters:

- collective dismissals and/or dismissals based on economic or organizational reasons; and
- dismissal of managers, board members and some other categories of workers.

### *The Issue of Dismissal*

The parties involved in an employment relationship – the employer and the employee - are free to terminate the contract of employment with mutual consent at any time.

The worker has the right to give notice to terminate an employment contract at any time. In such cases, the employer could compel the worker to give due notice, the length of which is dependant on the duration of the employment. When the prescribed notice period is not observed, the employer could bring the employee to the Court of Justice for damages.

On the other hand, a prohibition for dismissal is applicable when the employer wishes to terminate the employment contract: notification of dismissal for urgent reasons is required within 4 days to the Labour Inspectorate, while in other cases the employer has to apply to the tripartite Dismissal Board for a dismissal permit.

After consideration of the notification of dismissal for urgent reasons, the Inspector- General of the Labour Inspectorate could within 14 days object. The dismissal is then considered invalid and non-existent. Rejection of the application for the dismissal permit by the Dismissal Board means that the employment contract can then only be terminated by mutual consent or by the judge of a court of justice for serious reasons.

When notice of dismissal is given without a permit, complaints lodged at the Labour Inspectorate will ultimately lead to application for the permit and perhaps lawful dismissal. On the other hand, the worker could bring a claim before the Court of Justice for damages against the employer for non-observance of the prescribed notice period.

The Dismissal Board is a tripartite body and takes decisions on behalf of the Labour Minister in accordance with the law.

The Labour Inspectorate advises and enforces observance of the laws in relation to dismissals (Dismissal Permits Act).

Termination of the employment relationship without notification to the Labour Inspectorate (Inspector-General) in case of urgent reasons or without dismissal permit in other cases constitutes an offence against the Dismissal Permits Act. Penal sanctions (fine or imprisonment) are applicable in such cases.

The enforcement of the Dismissal Permits Act by the Labour Inspectorate is done through prosecution by the Public Prosecutions Department and is finalized by a judgment of the Court of Justice.

#### **4.5 The Foundation for Productive Work Units (SPWE)**

The Foundation for Productive Work Units (SPWE), which was established in 1974, is under the jurisdiction of the Labour Minister. The SPWE has the following objectives:

- to promote full and productive employment to jobseekers;
- to provide for technical and administrative assistance to small enterprises and cooperatives by consultancy services;
- to do research on problems and possibilities for small enterprises and cooperatives and publish the reports;
- to make available facilities to strengthen small enterprises and cooperatives; and
- to organize short and intensive training activities for jobseekers, small enterprises and cooperatives to enhance management skills and productivity and disseminate information.

The foundation endeavours to achieve these objectives by means of assistance to the preparation and establishment of small enterprises and cooperatives. The SPWE also assists existing small enterprises and cooperatives with legal formalities, training possibilities and technical and administrative services. These legal formalities relate to application for permits; credit facilities; tax matters etc.

A director, appointed by the Labour Minister, manages the activities of the foundation. He/She is assisted by at least two deputy directors entrusted with the task relating, respectively to:

- the financial management and supporting services; and
- counseling of the target groups, research and development.

A Supervisory Board comprising one representative each of the Labour Ministry, the Ministry of Trade and Industry, Planning Bureau Foundation, trade unions and employers, appointed for a term of three years, considers the efficiency of activities and the compliance with policy guidelines of the Labour Ministry. The Board also has an advisory role to the Labour Minister and the director.

#### **4.6 The Foundation for Labour Mobilization and Development (SAO)**

The Ministry of Labour established this foundation in association with the ILO in 1981. The general objective of the SAO is, training of the employed

and the unemployed and the promotion of the skills enhancement and development of craftsmen. The SAO attempts to achieve this objective by:

- the coordination and promotion of training and re-training activities for the employed and the unemployed in the context of the short term labour market policy;
- the placement of the target group at relevant institutions;
- providing special training programmes for specific target groups such as women and young persons;
- acting as an instrument for the elimination of unemployment;
- accessing the training of the adult vocational training centres; and
- cooperation with governmental and non-governmental institutions in promoting its goals.

The Board is the highest organ of the SAO, consisting of 5 or 7 members appointed by the Labour Minister after receiving nominations from the participating organizations. It is appointed for 2 years, under the Chair of the Under Director of Labour Market, and includes the Under Director for Vocational Secondary Education of the Ministry of Education and Public Development, one representative of each of the labour unions, the employers and one representative of the union of the SAO workers, while the Under Director Vocational Secondary Education is the secretary.

The Board determines the policy of the SAO in conformity with the guidelines of the Labour Minister and supervises the execution of the policy by the management.

The management consists of a General Manager and two assistant managers. These assistant managers are entrusted with the task relating to vocational training and administrative services, respectively.

#### **4.7 The Suriname Labour College (SIVIS)**

The Suriname Labour College (SIVIS) was established in 1967 and is the primary institution, which provides for workers and the labour union. The general objectives of the SIVIS are to enhance the knowledge and to raise awareness of workers and unions on the national, regional and international socio-economic role and organization and tasks of labour unions. To achieve these objectives the SIVIS:

- organizes written and oral courses for specific target groups;
- assists unions with the organization of courses or conferences; and
- serves as a centre for study and conference purposes.

The SIVIS contains, according to its constitution, the following organs: the Board; the Executive Board, a School Board Management, and a Planning Agency.

The Board, consisting of five or seven members, is the highest authority within the SIVIS system and has a tripartite structure. The members of the Board are selected from representatives of the labour unions cooperating and participating in the SIVIS. The employers' organizations and the labour minister have at least one representative each.

The chairman of the Board is a representative of the labour union. The chairman, treasurer and secretary constitute the members of the Executive Board. The main task of the Executive Board is to supervise the activities of the School Board Management.

The Board appoints a School Board Manager who is in charge of the daily training activities of the SIVIS. He/She is firstly accountable to the Executive Board.

The Planning Agency consists of four appointed members representing the labour unions participating in SIVIS, one from the employers' organizations and the other nominated by the labour ministry. The Planning Agency is an advisory body to the Board. It advises on the content of the different courses of the SIVIS. The Planning Agency is empowered to give unsolicited advice and is only accountable to the Board.

### **4.8 The Board for Cooperatives (RACO)**

The Board for Cooperatives (RACO) was established by the Board for Cooperatives State decree in 1994 and is based on the Cooperatives Act of 1944. The responsibilities of RACO are to:

- advise the Labour Minister on matters concerning cooperatives, in general;
- advise the Labour Minister on cooperative policy and legislation and the implementation of this policy; and
- promote the development of new and existing cooperatives.

The RACO is a bipartite institution under the aegis of the Labour Minister who, after recommendations of the relevant organizations, appoints one member each from the Ministries of Agriculture, Cattle Breeding and

Fisheries; Trade and Industry; Natural Resources; Labour, Technological Development and Environment; and Transport, Communication and Tourism, while the 5 other members of RACO are nominated by cooperatives or federations of cooperatives. These 5 nominees are determined by way of elections in the manner prescribed by the Board for Cooperatives State Decree of 1994. For every member, a deputy is appointed.

The RACO is appointed for three years. Besides the ten members, the Labour Minister appoints a chairman and secretary with no voting rights. The RACO meets at least once a month or whenever the chairman or at least 3 members deem it necessary.

The Labour Minister may only propose draft legislation on cooperatives after consultation with the RACO.

## 5.

# ILO Conventions as National Labour Policy

### The Ratification Procedure

The Netherlands has been a member of the International Labour Organization (ILO) since 1919. In accordance with the Constitution of the ILO, the Netherlands had to specify or declare whether ratified conventions would be applied to Suriname, as prior to 1975 the Netherlands was responsible for the international relations of Suriname. In this regard, the Government of Suriname gained experience on ILO procedures and related matters even in the colonial period.

After independence in 1975, Suriname became a member of the ILO in 1976. Within the Government, the Labour Ministry is by its terms of reference and by law, the exclusive authority to deal with international labour affairs. The initiating, preparation and finalizing of the ratification of Conventions of the ILO is the responsibility of the Labour Ministry because of its technical and procedural expertise and the communication and relations established during decades of close interaction with the ILO system. However, Article 103 of the Constitution states the following:

*“Agreements with other states and international institutions are concluded by or with authorization of the President and if required also ratified by him. These agreements should be submitted to the National Assembly without delay. They are not ratified and do not enter into force without approval by the National Assembly”.*

The national process of ratification is as follows:

- the Labour Minister submits newly-adopted Conventions or re-examination of unratified Conventions, and proposes the ratification of a Convention to the partners in the tripartite Labour Advisory Board (AAC);

- after approval by the AAC, the Labour Minister submits the proposal to the Council of Ministers;
- when approved by the Council of Ministers, the relevant documents are submitted to the Ministry of Foreign Affairs by the Labour Minister;
- the Ministry of Foreign Affairs prepares documents for the President who may seek the advice from the State Counsel;
- after advice has been obtained from the State Counsel, the Labour Ministry prepares the documents for the President to submit them to the National Assembly;
- the Ministry of Foreign Affairs is notified of the approval by the National Assembly;
- the Ministry of Foreign Affairs then prepares the instrument of ratification; and
- the instrument of ratification is sent to the Director-General of the International Labour Office.

In April 2006, Suriname ratified ILO Convention No. 182 on the Worst Forms of Child Labour, 1999; and ILO Convention No.181 on the Private Employment Agencies, 1997, thereby denouncing ILO Convention No. 96 on Fee-Charging Employment Agencies (Revised), 1949.

As of May 2006, Suriname has ratified the following 29 ILO Conventions in force, which are summarized hereunder; and many of which are based on the ILO publication *Summaries of International Labour Standards of 1990*:

## A. Basic Human Rights

### Freedom of Association

***Right of Association (Agriculture) Convention, 1921- No. 11;*** (Ratified: 15 June 1976)

The aim of the Convention is to promote and protect the right of association of agricultural workers.

Ratifying States should guarantee that the same rights of association as for industrial workers apply to those engaged in agriculture. The State should repeal any statutory or other provisions restricting such rights for those engaged in agriculture.

***Freedom of Association and Protection of the Right to Organize Convention, 1948 -No. 87;*** (Ratified: 15 June 1976)

The Convention aims to promote the right of workers and employers, without any distinction to organize for furthering and defending their interests.

Workers and employers, without any distinction whatsoever – except for armed forces and police to be decided by law – have the right to establish and to join organizations of their own choosing with a view to furthering and defending their rights.

These organizations:

- freely draw up their charters and rules, elect representatives and organize their administration and activities;
- shall not be liable to be dissolved or suspended by administrative authority;
- freely establish and join federations or confederations having the same rights and guarantees;
- freely affiliates with international organizations; and
- shall not be subject to restrictive conditions for the acquisition of legal personality.

***Right to Organize and Collective Bargaining Convention, 1949 - No. 98;*** (Ratified: 5 June 1996)

Workers shall enjoy adequate protection against acts of anti- union discrimination including refusal to employ, dismissal or any other prejudice.

Workers' and employers' organizations shall enjoy protection against acts of interference by each other including domination, financing and control of unions by employers or their organizations. In order to promote the right to organize, machinery appropriate to national conditions should be established. Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the development and utilization of voluntary collective bargaining on terms and conditions of employment. The Convention relates to the following objects: protection of workers exercising the right to organize; non-interference between workers' and employers' organizations and promotion of voluntary bargaining.

***Workers' Representatives Convention, 1971- No. 135;*** (Ratified: 15 June 1976)

The aim of the standard is the protection of workers' representatives and facilities to be afforded to them in the undertaking.

Workers' representatives shall be protected against any pre-judicial acts including dismissal regarding their activities, union membership or participation

in union activities in conformity with the law or agreements. The workers' representatives shall be afforded facilities in the undertaking to enable them to carry out their functions promptly and efficiently, without impairing the efficient operation of the undertaking.

## **Labour Relations**

*Labour Relations (Public Service) Convention, 1978 - No. 151*; (Ratified: 5 June 1996)

The standard aims to protect public employees exercising the right to organize. Provisions relate to non-interference of public authorities; the determination of employment terms and conditions by negotiation and guarantees for disputes settlement.

According to the Convention, public employees shall:

- enjoy adequate protection against acts of anti-union discrimination; and
- have the same civil and political rights as other workers only subject to obligations arising out of their status.

The organizations of these employees:

- enjoy adequate protection against acts of interference by a public authority in their establishment, functioning and administration; and
- enjoy complete independence from public authorities.

Representatives of the organizations of public employees shall be afforded facilities in order to enable them to carry out their functions promptly and efficiently. The negotiation or other participatory methods to determine the terms and conditions of employment for public employees shall be encouraged and promoted. The settlement of disputes shall be sought through negotiation between the parties or through independent and impartial machinery.

## **Forced Labour**

*Forced Labour Convention, 1930 - No. 29*; (Ratified: 15 June 1976)

The Convention aims to suppress forced labour.

Ratifying States should progressively suppress the use of forced and compulsory labour in all its forms. The convention, under certain conditions and guarantees, does not apply to 5 categories of activities: compulsory military service; certain civil obligations; prison labour; work exacted in

case of emergency; and minor communal services. The illegal exaction of forced or compulsory labour shall be punishable as a penal offence.

***Abolition of Forced Labour Convention, 1957 – No. 105;*** (Ratified: 15 June 1976)

The purpose of the Convention is prohibition of the recourse to forced or compulsory labour in any form for certain purposes.

Ratifying States take measures to suppress any form of forced or compulsory labour:

1. as a means of political coercion or education or as a punishment for holding or expressing political views opposed to the established political, social or economic system;
2. as a method of mobilizing and using labour for purposes of economic development;
3. as a means of labour discipline;
4. as a punishment for having participated in strikes; and
5. as a means of racial, social, national or religious discrimination.

### **Child Labour**

***Worst Forms of Child Labour Convention, 1999- No.182;*** (Ratified: 12 April 2006)

The Convention aims to effectively eliminate the worst forms of child labour by immediate and comprehensive action.

Ratifying States should take immediate and effective measures to secure the prohibition and the elimination of the worst forms of child labour as a matter of urgency. Children are persons under the age of 18. The Convention mentions four specific categories of the worst forms of child labour, the last one being work which is likely to harm the health, safety or morals of children. The others are related to slavery or similar practices, prostitution, pornography and drugs. The Convention calls for consultation with employers' and workers' organizations in particular with regard to monitoring mechanisms and the design and implementation of programmes of action. The Convention mentions some effective and time-bound measures and promotes international cooperation.

## **B. Employment**

### **Employment Policy**

***Employment Policy Convention, 1964- No. 122*** ;( Ratified: 15 June 1976)

The Convention promotes full, productive and freely-chosen employment.

Member States should declare and pursue an active employment policy, focused on full employment, economic growth and development, living standards, manpower requirements, unemployment and underemployment. The policy shall promote full, productive and freely- chosen employment. Employment policy shall take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives.

Measures to be adopted for attaining the specified objectives shall be decided and kept under review within the framework of a co-coordinated economic and social policy. Consultations should take place with representatives of persons affected by the measures to be taken and in particular representatives of employers and workers.

### **Employment services and agencies**

***Employment Service Convention, 1948 - No. 88***; (Ratified: 15 June 1976)

The aim of the standard is a free public employment service.

Ratifying States shall create and maintain a free public employment service to ensure the best possible organization of the labour market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources. The Convention describes in detail the organization of the employment service and its cooperation with other bodies in order to provide efficient recruitment and placement.

Employers' and workers' representatives should cooperate and participate in the operation of the employment service. Provisions of the Convention define the functions of the employment service and the measures to be taken by the service to accommodate certain categories of workers. The status and conditions of service of employment service staff are also dealt with in the Convention.

***Private Employment Agencies Convention, 1997 -No.181;*** (Ratified: 12 April 2006)

The aim of the Convention is to regulate private employment agencies taking into account their role in well functioning labour markets, the protection of workers and basic principles for a well-functioning industrial relations system.

The Convention does not apply to the recruitment and placement of seafarers. It promotes the operation of private employment agencies with possibilities for prohibition or exclusion of categories of workers or branches of economic activity.

Ratifying States take measures to ensure that the workers recruited by private employment agencies enjoy the right to freedom of association, to bargain collectively and to equality of treatment. Furthermore, necessary measures should be taken to ensure adequate protection in relation to minimum wages, working time and other working conditions, social security benefits, training, occupational safety and health, compensation and maternity and parental protection. Other provisions relate to privacy, charging of fees, migrant workers, child labour, investigation of complaints and cooperation with public employment service.

### **C. Labour administration**

***Labour Administration Convention, 1978 - No. 150 ;***( Ratified: 29 September 1981)

The aim of the standard is the establishment of an effective labour administration with the participation of employers and workers and their organizations.

The member State shall organize an effective system of labour administration, the functions and responsibilities of which are properly coordinated. This system shall be based on consultation, co-operation and negotiation with employers' and workers' organizations. The Convention extensively sets out the various functions of labour administration.

The staff of the labour administration system should be composed of persons who are suitably qualified and independent of improper external influences. They shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

Workers, who are not employed persons under the law, should be brought within the mainstream of the labour administration services.

## **Labour inspection**

*Labour Inspection Convention, 1947 – No. 81*; (Ratified: 15 June 1976)

The aim of the standard is to secure the enforcement of legal provisions for the protection of workers by inspections of industrial and commercial workplaces.

Ratifying States establish a system of labour inspection to enable the enforcement of legal provisions on conditions of work and the protection of workers. The Convention contains provisions related to the organization and functioning of labour inspection, the responsibilities of a central authority, the co-operation of labour inspection with workers, employers and their organizations, recruitment of qualified and gender balanced staff in sufficient numbers with appropriate power and material means.

The inspection services engage in regular inspection of workplaces, publication of reports; and annual statistics on the work of inspection services. The functions of labour inspection are:

- to secure the enforcement of law;
- to advise employers and workers; and
- to provide information to the competent authority.

The powers of the labour inspection stated in the Convention are: the power to freely enter workplaces liable for inspection; to carry out inquiries and interview persons; to examine documents and take samples; to order the remedy of defects and to give warnings; and to advise or to institute or recommend proceedings.

Obligations for labour inspectors are:

- to not have direct or indirect interest in undertakings under their supervision; and
- confidentiality regarding manufacturing and commercial secrets or source of complaints.

## **Tripartism**

*Tripartite consultation (International Labour Standards) Convention, 1976 - No. 144*; (Ratified: 16 November 1979)

The Convention promotes the effective consultation between government, employers and workers on international labour standards.

The Convention promotes effective consultation among government and the social partners on:

- government replies to questionnaires concerning the agenda of the International Labour Conference and their comments on

proposed texts to be discussed in the International Labour Conference;

- proposals to the competent authority or authorities in connection with the submission of Conventions and Recommendations (Article 19, ILO Constitution);
- regular re-examination of unratified Conventions and Recommendations to promote their ratification and implementation;
- questions arising out of reports on ratified conventions (article 22, Constitution ILO); and
- proposals for the denunciation of ratified Conventions.

The government and the social partners together determine the nature and form of such procedures adapted to national practice. The representatives participating in those procedures should be chosen freely and shall be represented on equal footing. Consultations shall take place at agreed intervals but at least once a year. Annual reports shall be issued on the working of the procedures as appropriate.

#### **D. Labour relations**

*Collective Bargaining Convention, 1981 - No. 154*; (Ratified: 5 June 1996)

The aim of the standard is to promote free and voluntary collective bargaining.

The ratifying State shall take measures to promote collective bargaining in all branches of economic activity including the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machineries or institutions with the voluntary participation of the parties to the collective bargaining process. The Convention provides for prior consultations of the organization of employers and workers and specifies that the promotional measures taken shall not hamper the freedom of collective bargaining.

#### **E. Conditions of work**

##### **Wages**

*Labour Clauses (Public Contracts) Convention, 1949 - No. 94*; Ratified: 15 June 1976)

The Convention contains some guarantees in the execution of public contracts.

According to the Convention, public contracts shall include clauses guaranteeing to the workers concerned, wages, hours of work and other conditions of labour which are not less favorable than the conditions established for work of the same character by national laws or regulations, collective agreements or arbitration awards, on the general level observed in the trade or industry concerned. The Convention promotes measures to ensure fair and reasonable conditions of health, safety and welfare to the workers.

The provisions of the Convention relate to: publication of texts implementing the Convention; a system of inspection; sanction (such as the withholding by public authorities of contracts); and measures enabling the workers concerned to obtain the wages to which they are entitled. The Convention provides for temporary suspension of the operation of its provisions in cases of *force majeure* or in the event of emergency, endangering national welfare or safety.

The Convention applies to:

- all contracts involving the expenditure of public funds or awards by a central public authority to another party employing workers for public works, manufacture materials, supplies or equipment or the performance or supply of services; and
- work carried out by subcontractors.

***Protection of Wages Convention, 1949 - No. 95;*** (Ratified: 15 June 1976)

The aim of the Convention is the adequate payment of wages with guarantees and protection against abuse.

The Convention contains provisions regarding the payment of wages. According to these:

- wages payable in money shall be paid in legal tender (by cheque authorized under certain circumstances); and
- wages shall normally be paid directly to the worker concerned.

The workers' liberty to dispose freely of his or her wages, without any coercion to make use of works stores should be protected. The operation of works stores:

- shall be subject to limited deductions according to regulations;
- shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the workers family; and
- shall be treated as a privileged debt in the event of the bankruptcy or judicial liquidation of an undertaking.

Other subjects of the Convention are regular payment of wages; pay days; places of payment; and communication with workers regarding payment. Ratifying States are obliged to prescribe adequate penalties, remedies and other measures to ensure the implementation of the Convention. The Convention applies to all persons to whom wages are paid or payable with possible exclusions after tripartite consultations. Partial payment of wages in kind (except payment in high alcoholic – content liquor or noxious drugs) may be authorized under certain circumstances and conditions.

### **General conditions of employment**

***Weekly Rest (Industry) Convention, 1921- No. 14;*** (Ratified: 15 June 1976)

The Convention seeks to guarantee at least 24 consecutive hours of rest per week in industrial undertakings.

All workers employed in any industrial undertaking shall enjoy, in every period of seven days, a period of rest comprising of at least 24 consecutive hours. This period of rest shall, wherever possible, be granted simultaneously to the whole of the staff of each undertaking and shall coincide with the days already established by the traditions or customs of the country or district. Certain exceptions may be authorized, for which as far as possible, compensatory periods of rest shall be provided. Employers are obliged to notify the whole staff by notices or otherwise of the days and hours of collective rest and to keep a roster of special systems of rest.

***Weekly Rest (Commerce and Offices) Convention, 1957 - No. 106;*** (Ratified: 15 June 1976)

The Convention guarantees at least 24 consecutive hours of rest per week in commerce and offices.

The Convention applies to:

- all public or private trading establishments, institutions and administrative services, in which the workers employed are mainly engaged in office work including offices of persons engaged in the liberal professions; and
- administrative services of certain other establishments mentioned.

The Convention however authorizes a certain number of exclusions, special schemes and temporary exemptions.

Ratifying States shall guarantee a weekly rest period of not less than 24 consecutive hours in the course of each period of seven days. Where special

schemes and temporary exemptions apply, a compensatory rest period of equivalent duration shall be granted. The period of rest shall, wherever possible, be granted simultaneously to the whole staff of each undertaking and shall coincide with the days already established by the traditions or customs of the country or district.

The Convention lists the different ways of giving effect to its provisions. The application of the measures taken in accordance with the provisions of the Convention shall not entail any reduction of the income of the persons covered by it. Adequate supervision and inspection and appropriate penalties should be in place.

### **Paid leave**

*Holidays with Pay (Agriculture) Convention, 1952 - No. 101*; (Ratified: 15 June 1976)

The aim of the Convention is to secure an annual holiday with pay in agricultural undertakings.

Workers employed in agricultural undertakings and related occupations shall be granted an annual holiday with pay after a period of continuous service with the same employer.

The ratifying State determines, in the manner approved by the competent authority:

- the minimum period of continuous service and the minimum duration of the annual holiday;
- to which undertakings, occupations and categories of workers employed in agricultural undertakings the Convention shall apply after consultation of employers and workers;
- the division of the annual holiday within certain limits; and
- the calculation of the remuneration payable in respect of the holiday.

Every person taking a holiday shall receive in respect of the full period of holiday not less than his usual remuneration or such remuneration as prescribed by a manner approved by the competent authority. Ratifying states can make exclusions regarding the application of all or some provision for certain categories of persons. An agreement to relinquish the right to annual holiday with pay or to forgo such holiday shall be void.

The Convention provides for payment of remuneration in respect of holidays due in case of dismissal for reasons other than serious misconduct. Ratifying States are required to ensure the application of the provisions of the Convention by an adequate system of inspection.

## **Occupational safety and health**

### ***- Protection against specific risks and toxic substances and agents***

***White Lead (Painting) Convention, 1921- No. 13;*** (Ratified: 15 June 1976).

The Convention intends to prevent lead poisoning, which is caused by sulphates of lead and white lead.

The Convention prohibits the use of white lead, sulphate of lead and all products containing these pigments in the internal painting of buildings. The employment of young persons under 18 years of age and of all women in painting work of an industrial character involving the use of these products is also prohibited. Permitted uses are regulated in accordance with principles provided for by the Convention, which enumerates various hygiene measures to be taken in such cases.

### ***- Protection in given branches of activity:***

#### ***Building Industry***

***Safety Provisions (Building) Convention, 1937 - No. 62;*** (Ratified: 15 June 1976)

The purpose of the Convention is to reduce both on humanitarian and on economic grounds the serious accidents and risks in building work.

The general rules set forth in this convention apply to all work done on the site in connection with the construction, repair, alteration, maintenance and demolition of all types of buildings. The State ratifying this Convention undertakes that it will maintain in force laws or regulations:

- a. ensuring the application of the General Rules set forth in the Convention (Part II – IV); and
- b. in virtue of which an appropriate authority has power to make the relevant regulations.

These laws or regulations ensuring the application shall:

- require employers to bring them to the notice of all persons concerned;
- define the responsible persons for compliance therewith; and
- prescribe adequate penalties for any violation thereof.

The ratifying State shall maintain a system of inspection to ensure the effective enforcement of relevant laws and regulations. The Convention

provides for exemption regarding work of certain character or certain areas in the territory of the state. The General Rules refer to scaffolds (part II), hoisting appliances (part III) and safety equipment and first aid (part IV).

### ***Dock Work***

#### ***Marking of Weight (Packages Transported by Vessel) Convention, 1929 - No. 27; (Ratified: 15 June 1976)***

The Convention prescribes the marking of weights of 1.000 kg or more or packages or objects transported by sea or inland waterway.

Any package or object of 1.000 kg or more gross weight shall have its gross weight plainly and durably marked upon it on the outside before it is loaded on a ship or vessel. The convention provides for the protection of dock workers employed in loading and unloading operations. The national laws or regulation of the ratifying state determine on whom the obligation for having the weight marked shall fall.

## **F. Social security**

### **Comprehensive standards**

#### ***Equality of Treatment (Social Security) Convention, 1962 - No. 118; (Ratified: 15 June 1976)***

The aim of the Convention is to ensure within the territory of any ratifying State, equality of treatment in respect of social security to refugees, stateless persons and nationals of another ratifying State.

Ratifying States undertake to grant to nationals of any other ratifying State and to refugees and stateless persons, equality of treatment with their own nationals in respect of social security. The equality of treatment applies to coverage of and the right to benefits granted in respect of every branch of social security for which the ratifying State has accepted the obligations of the Convention. Equality of treatment shall be accorded without any condition of residence. The ratifying State may accept the obligations of the Convention in respect of one or more of the following social security branches for which it has in effective operation, legislation covering its own nationals within its own territory: medical care and benefits related to sickness, maternity, invalidity, old age, survivors, employment injury, unemployment and family.

Certain benefits (invalidity; old age; survivors; death grants; and

employment injury persons) shall be guaranteed, even when they are resident abroad, to the nationals of the ratifying State, as well as to nationals of any other State that has accepted the obligations of the Convention for the corresponding branch. Family allowances shall be guaranteed, both to nationals of the State and to nationals of any other State which has accepted the obligations of the Convention for the same branch, in respect of children resident within the territory of one of these states. The Convention provides that States that have ratified the Convention, shall endeavour to participate in schemes for the maintenance of acquired rights and rights in the course of the acquisition. The Convention does not apply to special schemes for civil servants, schemes for war victims or public assistance.

On ratification of this Convention, Suriname accepted only the obligation in respect of the employment injury benefit.

### **Protection in the various social security branches**

#### ***- Employment injury benefit***

#### ***Workmen's compensation (Accidents) Convention, 1925 – No. 17;*** (Ratified: 15 June 1976)

The objective of the Convention is to ensure minimum compensation for workers suffering personal injury due to industrial accidents or their dependants.

The compensation to workers suffering personal injury due to an industrial accident or their dependants shall be compensated on terms at least equal to those in the convention. The compensation payable to injured workmen or his dependants shall be paid in the form of periodical payments with the possibility to transform it partially or wholly in a lump sum.

Injured workers shall be entitled to:

- additional compensation if injury results in incapacity requiring constant help of another person;
- medical aid and to such surgical and pharmaceutical aid as recognized necessary; and
- the supply and normal renewal of such artificial limbs and surgical appliances as deemed necessary or the award of a sum representing the probable cost of the supply and renewal.

National laws or regulations shall:

- prescribe measures of supervision and methods of review;

- provide for supervisory measures as are necessary to prevent abuses in connection with the renewal of appliances or utilization of the additional compensation; and
- make provisions regarding insolvency of the employer or insurer.

The Convention applies to workmen, employees and apprentices employed by any enterprise undertaking or establishment. Ratifying States can make exceptions for certain categories of workers. The Convention does not apply to: seamen and fishermen, persons covered by some special schemes not less favourable than provided in the Convention, and to agriculture.

***Equality of Treatment (Accident Compensation) Convention, 1925 - No. 19;*** (Ratified: 15 June 1976)

The Convention promotes the equality of treatment for national and foreign workers as regards workmen's compensation for accidents.

Ratifying States undertake to grant to the nationals of any other ratifying State who suffer personal injury due to industrial accidents happening in its territory or to their dependents the same treatment as to its own nationals. Equality of treatment shall be guaranteed to foreign workers and their dependents without any condition as to residence. They shall also institute a system of workmen's compensation for industrial accidents whether by insurance or otherwise.

Ratifying States undertake to afford each other mutual assistance to facilitate the implementation of the Convention and the execution of relevant laws and regulations. Ratifying States can make bilateral agreements with other States regarding payments and the application of national laws and regulations.

***Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 - No. 42;*** (Ratified: 15 June 1976)

The Convention intends to secure workmen's compensation for occupational diseases.

The Convention provides for compensation payable to workmen incapacitated by occupational diseases or in case of death from such diseases, to their dependants. The rules should be no less favourable than those prescribed by national legislation for injury resulting from industrial accidents. Ratifying States may make such modifications and adaptations, as they deem expedient in determining the conditions for payment and application

of their legislation to the said diseases. The Convention enumerates for the consideration of the ratifying States in a schedule, a list of diseases and toxic substances and the corresponding trades, industries or processes.

## **G. Employment of women**

### **Night work**

*Night Work (Women) Convention (Revised), 1934 - No. 41*; (Ratified: 15 June 1976)

The Convention promotes the regulation of employment of women during the night.

Women, without distinction of age, shall not be employed during the night in any public or private industrial undertaking, or any branch thereof, other than an undertaking in which only members of the same family are employed. This provision shall not apply:

- in cases of *force majeure* under certain circumstances; and
- in cases where the work has to do with raw materials or materials in the course of treatment subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

The Convention does not apply to women holding responsible positions of management who are not ordinarily engaged in manual work. The Convention defines the term 'night' as being a period of at least eleven consecutive hours including the interval between eleven o'clock in the evening and six o'clock in the morning. For industrial undertakings influenced by seasons and climate conditions, other regulations may be applicable under special circumstances related to certain industries or area.

## **H. Employment of children and young persons**

*Minimum Age (Fishermen) Convention, 1959 - No. 112*; (Ratified: 15 June 1976)

The aim of the Convention is to set a minimum age for admission to employment as fishermen.

The Convention is applicable to fishing vessels including all ships and

boats, of any nature whatsoever whether publicly or privately-owned, which are engaged in maritime fishing in salt waters. Persons under the age of 15 years shall not be employed or work on fishing vessels. The prohibition may not apply during school holidays subject to conditions related to health; school attendance; and commercial profit.

Exceptions can be allowed in the interest of the child by the issue of certificates permitting children of not less than 14 years to be employed, under certain conditions and circumstances.

Young persons under the age of 18 years shall not be employed or work on coal-burning fishing vessels as trimmers or stokers. The rules as mentioned shall not apply to work done by children on school-ships or training-ships provided that such work is approved and supervised by public authority.

# 6.

## Legislative Summaries

### 6.1 The Civil Code

The Civil Code (CC) contains provisions in Book III, Title 7A, regulating the relationship between workers and employers in an employment contract. According to the contract law, all private persons including workers and employers are free to conclude agreements, including employment contracts which take legal restrictions and requirements into account. Minors – persons under 21 years, who have never been married – are only qualified to enter into an employment contract if they have the authorization (oral or written) of their statutory representative (1613 g paragraph 1). Authorization is considered to be given if the minor performs duties without opposition or objection of the statutory representative during 6 weeks after conclusion of the employment contract (Article 1613 h). An employment contract between two spouses is null and void (Article 1613 i).

Book III, Title 7A contains special provisions to promote good industrial relations between workers and employers in an employment contract. The most relevant duty is to act as befits a good worker or employer (Articles 1614 y and 1615 d).

#### **Types of contract**

The Civil Code refers to three types of contracts to perform work:

- a. the employment contract;
- b. the contracting for work; and
- c. the contract or instruction to render services.

The Civil Code puts emphasis on the employment contract: the contract whereby one party – the employee – binds himself/herself to

perform work for the other party – the employer - for remuneration while being employed by the latter for a certain time (Article 1613 a). An employment contract requires no prescribed form; it can even be based on an oral agreement.

### **Standing employment conditions**

This Code deals with the standing employment conditions and its legal requirements for validity (Article 1613 j). A clause or declaration of the employee which binds the employee to agree with any new standing employment conditions or the amendment of an existing one in the future, is void (Article 1613 l). Stipulations deviating from the standing employment conditions must be agreed upon in a special contract, in writing (Article 1613 m).

### **Elements of remuneration**

The remuneration of workers should only consist of cash, food and nourishment, means for artificial light, clothing, products of the enterprise (the barest necessities of life), free use of a house or land, services from the employer (e.g. cleaning of house, free transportation or medical care), education by the employer (e.g. mathematics, languages) and benefits after some years of employment during vacation, and free transportation to country of origin (Article 1613 p and Holidays Act).

### **Fines**

To maintain order in enterprises, the employer can use fines as an instrument to influence the observance of company rules. However, the imposition of fines which is a fixed amount has to meet the following conditions:

- the relevant rules and the fixed fine have to be exactly stated in the standing employment conditions or written agreements; and
- the intended use of the fine has also to be stated. The imposition of the fine does not benefit the employer (Article 1613 u).

### **Obligation to pay remuneration**

The employer is obliged to pay remuneration during the term of the employment contract (Articles 1614 and 1614 a) for work done, observing the “no work no pay” principle (Article 1614 b).

Some exceptions to the “no work no pay” principle, are:

- sickness during a short period (6 weeks) including sickness related to maternity and non-industrial accidents, for workers being sick for more than 2 days and employed longer than 4 months (Article 1614 c paragraphs 1 and 4). The obligation to pay does not apply if the sickness existed or is caused by circumstances before employment, by unethical code of conduct or use of alcohol or drugs. The obligation to pay does not exist if the sickness is self-inflicted (Article 1614 c paragraph 1). According to the Civil Code the burden to provide evidence on the sickness or to prove satisfactorily by submitting a medical certificate or otherwise, falls upon the worker (Article 1614 c paragraph 1);
- holidays (Holidays Act);
- discharge of statutory obligations (Article 1614 c paragraph 6.);
- special circumstances such as birth, death, marriage and burial (Article 1614 c paragraphs 6 and 7);
- when the employer is not able to make use of the services of the employee who is able and willing to work (1614 d); and
- suspension when such is not agreed upon in written contract (collective bargaining agreement) or standing employment conditions by virtue of Article 1614 d paragraph 2.

During strikes, the employer can lawfully apply the principle of “no work no pay”. This rule is also applicable in the public sector.

The employer is forbidden directly or indirectly to:

- charge interest on a loan arranged by the employer or on advance payment of wages;
- impose levies on the use or maintenance of equipment belonging to the employer; and
- hold one employee liable for obligations of another employee or to accept him/her as a guarantor (Article 1614 p paragraph 3).

### **Late Payment of Salary/Wages**

The employer is obliged to pay a salary increase if the remuneration is paid after 3 days on which it actually should have been paid by law. This rule applies if the late payment is due to circumstances relating to the employer. The additional pay is 5% per day from the 4<sup>th</sup> to 8<sup>th</sup> day and an additional 1% per day thereafter and subject to a maximum of 50% (Article 1614 q).

## **Deductions from Salary/Wages**

Deduction from the salary is allowed for debts to the employer not exceeding 20% of every payment for fines, contributions to funds and purchasing prices of household goods and advance payment of wages and not exceeding 40% for compensation (damages), rental, medical costs, taxes and payments made in error exceeding the exact remuneration due, e.g. miscalculations (Article 1614 r).

## **Termination of Employment**

An employment contract is for a fixed term or for an indefinite period. Both contracts can be terminated in the following manner:

- Notice for termination of a contract for a fixed term is only required when such is stipulated (first contract) or in case of a continued employment contract or a contract considered to be continued (Article 1615 e and f). In order to give notice, the employer applies for a dismissal permit;
- Termination without notice and with compensation for termination other than for urgent grounds/ serious misconduct (Article 1615 of paragraph 1);
- Death of the worker (Article 1615 j); Death of the employer results in termination of the employment contract only if this is stipulated (1615 k);
- Instant dismissal on urgent grounds (i.e. for good and sufficient cause/serious misconduct - Article 1615 p) without notice or compensation. Employers should in this case immediately dismiss the employee and notify the Labour Inspectorate within 4 days for its approval or objection (Dismissal Permits Act). The Civil Code lists some reasons for instant dismissal for employers and workers (Articles 1615 p and q).

Urgent reasons for the employers are in general such acts, or conduct of the employee, which makes it unreasonable to require the employer to continue the employment relationship. Some examples stated in the Civil Code (Article 1615 p) are related to:

- misleading of the employer by supplying false information or submitting false or forged documents to influence his/her entering into employment;
- serious lack of skills and competencies of the worker;
- drunkenness or other misbehavior of the worker;

- theft, embezzlement, fraud or other criminal offenses of the worker affecting the trust of the employer;
- offences of the worker effecting the trust of the employer;
- assault, gross insult or threat of the employer, his family or colleagues;
- threats to the employer, his family members or colleagues;
- vandalizing the employer's property;
- breach of confidentiality by the worker;
- refusal to do a particular job by the worker;
- negligence by the worker in relations to his duties; and
- the impossibility of the worker to perform duties due to his own acts.

Urgent reasons for the worker are conditions, which make it unreasonable for him to continue the relationship (Article 1615 q). Some grounds stated in the Civil Code are those related to:

- assault by the employer or his family members;
- threats to the worker or family members;
- late payment of wages/salaries;
- non-performance of the employer regarding board and lodging, if such is stipulated;
- insufficient amount of work or assistance to the worker, if such is stipulated;
- neglecting of duties;
- orders from the employer to perform duties for another employer without reasons;
- safety for life, health, morals and honour; and
- sickness.

An employment contract can also be terminated by dissolution by court for serious misconduct (Article 1615x). Some other ways to terminate the employment contract are:

- Immediate notice during a stipulated probationary period (maximum 2 months).
- Termination with mutual consent.
- Termination by court on request of the statutory representative (1615 m) or
- the request of the Procurator-General (Article 1615 n) in case of employment of a minor.

### **Probationary period**

Probationary periods can be stipulated at the beginning of an employment or for a new position. Probationary periods however are not obligatory. According to the Civil Code, probationary periods have to be stipulated when the employer or worker deem it necessary. Probationary periods should have a maximum duration of 2 months. When a probationary period is stipulated, the duration should be the same for the employer and the worker. Probationary periods, even if they are shorter than the maximum duration of 2 months, should not be extended. Any stipulation contrary to the above-mentioned is null and void (Article 1615 l)

### **Notice period**

In every case where notice for termination of the employment contract is required, a notice period is applicable regardless which party, the employer or the worker, wishes to terminate. The duration of the notice period depends on the length of the employment and the term of payment (monthly, weekly, etc.). The longer the length of employment the longer the notice period will be. In the Civil Code, different levels of minimum notice period are mentioned for employers and for workers (Article 1615 i).

### **Sickness**

It is prohibited for the employer to terminate the contract during sickness while the worker is entitled to remuneration (Article 1615 h paragraph 2). For entitlements to remuneration see “*Obligation to pay remuneration*”.

### **Testimonial**

The employer is obliged to give a testimonial to the worker on his request at the termination of the employment. It contains a factual description of the duties/work performed by the worker and the terms of employment. If requested, the testimonial should state the manner in which the duties were fulfilled and the reason for the termination of the employment contract (Article 1614 z). If the employer without reasons terminates the employment, the employer is obliged to state this in the testimonial. The employer is not obliged to state the reason.

If the worker terminates the employment unlawfully, the employer is entitled to state this in the testimonial (Article 1614 z paragraph 2).

The employer is liable to damages to the worker and third parties if the employer:

- a. refuses to give a testimonial;
- b. deliberately includes false information in the testimonial; and
- c. deliberately includes some features or signs in the testimonial to furnish additional information which is not specifically stated in the testimonial (Article 1614 z paragraph 3).

## 6.2 The Labour Code

### Working hours

The maximum working time in enterprises is in general 8½ hours per day and 48 hours weekly. Shorter working times can be prescribed by State Decree for labour of certain character or under certain conditions (Article 3). The maximum working time for workers exclusively engaged in security activities is 12 hours per day and 72 hours per week and for workers mainly but not exclusively engaged in security activities, 10 and 60 hours. The Labour Minister can prescribe longer working time for certain categories of workers, enterprises or types of enterprises (Article 4). For certain enterprises (Bruynzeel) and types of enterprises (mining (bauxite) and related constructions, building and some utility enterprises), longer working hours have actually been regulated by State Decree.

### Overtime

Overtime is work performed for longer hours than prescribed in law or stipulated (See Labour Code Articles 12 paragraph 1 and 15).

Permits allowing overtime can be granted during times when excess work occurs or in special circumstances:

1. by the Inspector-General incidentally or in general for all or some category of workers, subject to a maximum of 64 hours per week (Article 6 paragraphs 1 and 2); and
2. by the Labour Minister incidentally subject to a maximum of 72 hours per week and 2900 hours per year (Article 6 paragraph 3).

In cases of emergency, authorization can be given for overtime work by the Inspector-General (IG), under the rules of the Labour Code (Article 7).

### **Shift work**

As stated under “*Working hours*” above, the Labour Code stipulates the maximum working hours in order to protect individual employees.

For enterprises where, in general, work is performed for longer than 8½ hours daily or 48 hours weekly, employers can operate shift systems with the approval of the Inspector-General (Article 11 paragraph 1), and approval can be subject to certain conditions.

### **Night work**

Employers are in general prohibited to employ labour between 19.00 hrs and 06.00 hrs (Article 8 paragraph 2a). This regulation is not applicable for the workers mentioned in article 4 who are permitted in the Labour Code to work longer than 8½ hours daily and 48 hours weekly: workers engaged in mainly or exclusively security services (Article 8 paragraph 4). Apart from that, exceptions can be made for all or certain categories of workers on request of the employer (incidental permit) or for all or certain categories in a group of enterprises (general permit) for industrial establishment, catering, hotels, cinema’s, garages etc.

The Inspector-General can prescribe conditions in the permit, examples of which are given in Article 10, paragraph 2. In both cases, consultation by the Inspector-General with the relevant labour unions as prescribed is required (Article 10, paragraph 1). The employer should also be consulted in case of the general permit.

Different rules do not apply to children and young persons (Article 10, paragraph 4).

### **Overtime pay**

The minimum additional pay for overtime is:

- during the week: 50% (Articles 12 paragraph 2 and 15);
- on Sundays and public holidays and on compensating days of rest: 100% (Article 12 paragraph 2);
- in all cases of work on Sundays: 100% (Article 13 paragraph 1).  
The worker is additionally entitled to compensation of one free day of 24 consecutive hours;
- on public holidays: 100% (Article 13 paragraph 1). The worker has the right to compensation one free day of 24 consecutive hours; and
- on public holidays: 200%, if it is, stipulated in a written employment

contract or collective bargaining agreement that the worker is not entitled to a free compensation day (Article 13 paragraph 2).

### **Breaks**

The employee is entitled to a break of at least ½ hour after 5 hours of uninterrupted work during a workday lasting more than 6 hours (Article 9, paragraph 1). A break shorter than 15 minutes is considered as working time according to the law (Article 9 paragraph 3). A longer minimum break can be prescribed by the IG for certain categories of labour (Article 9 paragraph 1). According to the Labour Code, the IG can also give authorization for different rules regarding breaks under certain conditions (Article 9, paragraph 2). He can also issue a permit on request of the employer for different regulations for enterprises under special circumstances (Article 10, paragraph 3).

### **Rest Days**

The Labour Code prohibits employees to work on Sundays and public holidays (Article 8 paragraph 1). The worker is entitled to one free morning (before 01.00 pm) or afternoon (after 01.00 pm) in a week (Article 8 paragraph 2 b).

The Inspector-General can permit, in special circumstances, different rules for industrial establishments, catering establishments, hotels, cinema's, garages etc., incidentally or in general (Article 10 paragraph 1) under certain conditions (Article 10 paragraph 2) regarding the weekly free morning or afternoon and work on Sundays and public holidays for all or certain categories of workers. Consultation by the Inspector -General with the relevant labour union(s) is obligatory. The employer should also be consulted in case of the general permit.

Different rules do not apply to children and young persons (Article 10 paragraph 4).

### **Child labour**

The Labour Code prohibits work by children in any enterprise whether or not for remuneration (Articles 1 and 17). In the Labour Code, children mean, in general, persons who are younger than 14 years and in case of employment on board of seagoing fishing boats, younger than 15 years (Article 1).

The prohibition is not applicable in:

- homes where the child is brought up, schools, youth custodial institutions, workshops, nurseries and other similar institutions, if the work is not primarily for financial benefit, and has an educational character; and
- agriculture, horticulture and animal husbandry for the family, except in the case of work performed in factories or workshops or by equipment with a capacity exceeding two (2) Horsepower (Article 17).

Exceptions to the prohibition can be allowed for children from 12 years up, to perform work which is not dangerous, does not put a heavy mental or physical strain on the child, and is necessary for the child to learn a trade (Article 18).

In very special circumstances, exception can be made from the general prohibition of Article 17, on request of the head of the family by the Inspector-General, in the interest of the child (Article 19).

### **Young persons**

Labour – paid or unpaid – which is hazardous to health, moral and life, or labour during the night, is prohibited for young persons (Article 20, paragraph 1). In the Labour Code young persons mean persons who are 14 years of age but younger than 18 years. Exceptions for night labour or labour under certain conditions can be made by State decree for some specific enterprises in general (Article 21 paragraph 1) or incidentally on request of the employer by the Inspector General (Article 21 paragraph 2).

### **Forced labour**

Labour extracted under violence or threat of violence or punishment or any other kind of coercion or threat is prohibited, except in certain circumstances such as in case of war or disasters, excluding violence (Article 20 a).

According to the provisions in contracts in general and in the Civil Code, contracts extracted under force are voidable (Articles 1344 – 1348).

### **Payment**

Article 22 contains some prohibitions on the places of payment with exceptions. The payment in cash shall not be paid:

- in bars, restaurants or similar places;

- in public entertainment places; and
- in shops or stores for foodstuffs.

The prohibition does not apply to workers employed in these establishments listed above. The payment in cash shall take place during working hours (Article 22).

### **Labour inspection**

The Labour Code entrusts managers, statutory representatives and workers with some responsibilities regarding cooperation with labour inspection (Article 23).

In this regard, employers are obliged to keep “lists” and “registers” in a certain format with information of workers, working hours, breaks, overtime, free (compensation) days (Article 24) of which inspection should be allowed (Article 25). The Labour Inspectorate, police and specially nominated inspectors of the Labour Minister, enforce the observance of the requirement in the Labour Code (Article 31). The Labour Inspectors have certain powers and responsibilities regarding entrance of workplaces and houses (Article 32) and confidentiality (Articles 33, 34).

### **Appeal**

The Labour Minister is the appellate authority against decisions taken by the Inspector General pursuant to the Labour Code (Article 26). Appeal should be made within 14 days after the decision. An appeal can also be made if the Labour Inspectorate does not decide on applications within a reasonable period.

### **Accountability/liability**

Managers, middle management, if applicable, and statutory representatives or heads of family are responsible for observance of the rules of the Labour Code and are accountable /liable for non-observance of the rules therein (Article 28).

### **Penalties**

Non-observance of the rules of the Labour Code leads to penalties laid out in fines or imprisonment (Articles 29 and 30).

### **6.3 The Collective Bargaining Agreements Act (CBAA)**

According to the definition (Article 1 paragraph 1), only an organization of workers and employers can conclude collective bargaining agreements. This Act deals with most of the provisions regarding formal and other requirements of collective bargaining agreements (Articles 1 paragraph 1; 4; 7; 8 – 14; 19 – 21; and 24). In a collective bargaining agreement, the parties generally determine the labour conditions, which should be applicable when the employer concludes an employment contract with workers.

Workers' organizations, which are established by, or under the domination of the employers or their organizations or supported by them by financial means, are not considered as labour unions, and are thus unable to conclude collective bargaining agreements (CBAA, Article 1 paragraph 2). A labour union has the power to conclude a collective bargaining agreement only if this is stated explicitly in the union charter/constitution/rules (Article 3). Parties to the collective bargaining agreement have the obligation to provide copies to their members after conclusion of a collective bargaining agreement (Article 5) or after amendment or extension (Article 6).

Parties to a collective bargaining agreement have the obligation to promote the observance of the provisions by their members (Article 9 paragraph 1). Organizations, parties to the collective bargaining agreement, are liable for their members only as far as mentioned in the agreement (Article 9, paragraph 2).

The CBAA provides for claims for damages incurred by a party or its members caused by non-observance by the other concerned party, against the offending party (Article 16 paragraph 1). Notice for termination of the collective bargaining agreement results in termination for all parties, except if stipulated otherwise (Article 22).

### **6.4 Recognition of Labour Unions Decree**

The employer is obliged to negotiate with the recognized labour union regarding collective bargaining agreements (Article 1).

In case of justifiable doubt, the National Labour Mediation Council (BR), on request of the employer or the bargaining union concerned, holds a referendum (vote/poll) in order to determine whether the majority of the voting workers authorize the union to enter into negotiations for a collective labour agreement (Article 2). The same procedure applies when two or

more unions claim the right to enter into negotiations representing the workers. The union with the majority of the votes is then considered to be the recognized majority union representing the workers and shall enter into negotiations and conclude the collective bargaining agreements.

When the votes are equally divided, even after the 2<sup>nd</sup> referendum/vote, the union which acquired legal personality firstly, will represent the workers in collective bargaining agreements negotiations (Article 3).

Workers are entitled to free time with full pay for the voting, if the referendum is conducted during work time (Article 4). The BR notifies parties of the voting results as soon as possible (Article 5). An employer, who refuses to negotiate with the authorized union, may be punished with either imprisonment or fine (Article 7).

### **6.5 The Referendum Recognition of Labour Unions Decree**

The Referendum for Recognition of Labour Unions Decree regulates in detail the procedures to be followed, in the event that a referendum is required. The National Labour Mediation Council is in charge of such referenda and assigns its assistants to conduct the poll (Article 5). The Referendum Recognition of Labour Unions Decree deals with the technical voting procedure and particularly with communications and notifications, (Article 2), hearings and drawing up of the list of holders of voting rights (Article 3), determination of the place and time of a referendum (Article 4), organization of the actual voting (Articles 6; 7 and 8), order during voting (Article 9), closing of ballot (Articles 10 and 11) and determination and communication of the vote (Articles 12 – 15).

### **6.6 The Protection of Workers' Representatives Decree**

The Protection of Workers' Representatives Decree (PWRD) contains rights and liberties for workers, labour unions, employers and their representatives. These are namely the right to:

- establish workers' and employers' organizations of their own choosing without previous authorization and to become members (Article 1);
- draw up their charters and rules, elect their representatives in
- freedom, organize their administration and activities and formulate their programmes (Article 2);

- protection against acts of anti-union discrimination including dismissal (Article 3);
- adequate facilities to workers' representatives enabling them to efficiently carry out their union responsibilities without impairing the efficient operation of the enterprise (Article 4); and
- the intervention by the Labour Minister in case of non-observance or dispute on the rights laid down in the PWRD (Article 5).

The penalties in case of non-observance of the PWRD are fine or imprisonment (Article 6).

### **6.7 The Industrial Accidents Act**

The Industrial Accidents Act (SOR) aims to indemnify the worker against financial consequences of industrial accidents. These are accidents related to or in the course of employment including fatal injuries (Article 4). The employer is obliged to pay compensation except for workers engaged with the main activity in agriculture, horticulture, forestry and cattle breeding (Article 5). In order to fulfill this obligation, employers have to take out industrial injuries insurance (Article 10).

If the employee is not insured, the compensation benefits, medical and other costs are not to be covered by an insurance company; the employer must cover the employee. The employee should be insured during the whole period of employment until termination of the employment contract. The right to compensation begins on the 3<sup>rd</sup> day after the injury, until a medical statement of recovery, (Articles 6 paragraph 1d and 20) is issued.

The cash benefit covers only working days, beginning on the day after the injury (Article 6 paragraph 1d). The worker is not entitled to compensation if the injury is caused intentionally/self-inflicted or by use of alcohol or drugs provided that the employer was not aware of these circumstances (Article 4, paragraph 4).

In case of injury, the compensation consists of:

- medical treatment and care (Article 6 paragraphs 1a and 10a, b and d);
- medicine and bandages (Article 6 paragraph 1a);
- artificial limbs and other equipment (Article 6 paragraph 10e);
- transport (Article 6 paragraph 1a); and
- cash benefit being 80% (totally disabled whether permanently or

not) or a portion of 80% (partially disabled) of the daily pay (Article 6 paragraph 2).

The medical expert engaged determines the degree of invalidity, and also issues the medical statement of recovery (Article 20). Appeal against the determination of the degree of invalidity is possible at the Industrial Injuries Committee, which gives a final decision (SOR Article 20 paragraph 2).

In case of fatal injury, the compensation consists of:

- funeral expenses (article 6 paragraph 1b) ; and
- cash benefit for dependants (wife, children) not exceeding 50% of the daily pay. The children are to remain entitled until their 16<sup>th</sup> birthday, while the spouse is entitled until she remarries (Article 6 paragraph 3).

The cash benefits are periodic payments related to the remuneration payment of the worker. The beneficiaries (worker or dependants) or the insurance company can request the Industrial Injuries Committee to convert the regular payments into a lump sum benefit (Article 6 paragraph 6). Besides the obligation to take out industrial injury insurance, the employer has the following responsibilities under the SOR:

- provide for medical assistance immediately, taking the circumstances of the injury into account (Article 11 paragraph 1)
- official notification of accidents (Article 11 paragraph 2);
- keep a register of industrial injuries as prescribed (Article 16);
- give information to controlling officials of labour inspection or other public officials (Article 13); and
- notify the Permanent Secretary of the start-up or cessation of business or change in operational procedures (Article 22).

Responsibilities/obligations of the employee:

- notify the employer of his/her injury (Article 11 paragraph 1);
- allow medical check-up and treatment (Article 6 paragraph 11);
- avoid unilateral change in medical treatment (Article 6 paragraph 11);
- avoid actions which could impair recovery (Article 6 paragraph 12); and
- cooperate with inspection officials (Article 13).

These same rules also apply in relation to occupational diseases (Article 24) which may occur during an employment relationship or within a certain

period after termination of that employment relationship. This specified period is declared by the President by Decree. The SOR enumerates 21 occupational diseases with the corresponding trades or industries or processes (Article 25). Pursuant to the SOR (Article 24 paragraphs 2 and 3), periods are specified by Decree (G.B. 1947 No. 205) for eight occupational diseases.

The Labour Inspectorate is entrusted with the supervision of the provisions of the SOR. The police have also the power to investigate (Article 12 and 36).

The penalties for non-observance of the SOR are imposition of fines, imprisonment or discontinuation of business (Articles 31 – 35).

## **6.8 The Occupational Safety and Health Act**

The Occupational Safety and Health Act (OSHA) is a framework act on safety and hygiene in enterprises. Detailed rules are or should be laid down in subsidiary legislation. At present there are nine Safety Regulations pursuant to the OSHA.

The OSHA and the nine Safety Regulations aim to decrease the chances of employment injuries and occupational diseases. The paragraphs list some provisions in the OSHA and the subjects to be laid down in Safety Regulations.

Some general obligations of the employer in the OSHA are:

- compliance of company procedures with rules in the OSHA and the nine Safety Regulations (Article 3 paragraph 2);
- permission from the Permanent Secretary for the operation of some machinery and equipment (Article 3 paragraph 1);
- observance of the conditions attached to the permission (Article 3 paragraph 4);
- cooperation with inspection officials on the inspection of relevant machinery and equipment (Article 3 paragraph 5);
- notices in Dutch stating the Safety Regulations applicable in the enterprise (Article 4 paragraph 1) and notice to the (new) employees (Article 4 paragraph 2);
- cooperation with (labour) inspection officials supervising the observance of the OSHA and the Safety Regulations (Article 6); and
- notification to the Permanent Secretary of the starting up or closure of a business, the engagement of some equipment and personnel or changes therein (Article 7).

Obligations of the employee pursuant to the OSHA are to:

- observe the Safety Regulations and other safety measures taken by the employer (Article 3 paragraph 4); and
- cooperate with (labour) inspection officials supervising the observance of the OSHA and the Safety Regulations (Article 6).

Penalties in the event of breach of the OSHA and the Safety Regulations are the imposition of fines or imprisonment (Article 8).

## 6.9 The Safety Regulations

### *Safety Regulation 1*

The aim of this Regulation is to **prevent or diminish the risk of injuries in all enterprises**. This rather comprehensive regulation prescribes technical procedures and measures when power-driven machines are in operation (Articles 1 – 10). Provisions are made for signaling arrangements, protection and maintenance. The rules regarding steam and vapor installations (Articles 11 and 12) are related to protective devices and testing measures. The provisions on lifting gear and appliances and moving equipment (Articles 13 – 21) are related to the marking of maximum safe working load, overload and minimum age (18 years).

Chapter IV of Safety Regulation 1 (Articles 22 – 30) contains provisions on safety regarding buildings, scaffolds, floors, platforms, gangways and stairways. The provisions relate to prevention of collapse or accidental displacement, overload, maintenance, erection, alteration and dismantling, and sufficient lighting. The Regulation also prescribes requirements regarding explosive, chemical and other unhealthy substances (Articles 31 – 36). These rules provide for measures on danger symbols/signs, spilling, splashing, knocking over or emanation of substances.

The employer has to take measures against the risks of falling or flying objects (Article 37). The piling up of material and digging activities should be carried out with utmost care (Article 38). The same applies for the engagement of cables, chains, halters etc. (Article 39).

The employer is obligated to provide for protective devices and storage rooms whether on water, land or in the air and to supervise when these are in use (Article 40 paragraphs 1 and 3). The employee has the obligation to use these devices (Article 40 paragraph 2).

The Labour Inspectorate and the Geological Mining Services are entrusted with the supervision of the above legislation (Article 43).

### *Safety Regulation 2*

This Regulation aims to **promote the hygiene in all enterprises**. Some requirements for promoting hygiene such as toilets are related to cleaning, drainage, and washstands; and for enterprises with more than 5 workers, showers.

### *Safety Regulation 3*

Safety Regulation 3 prescribes some **measures regarding first aid**. Enterprises with moving equipment, explosive gasses or unhealthy substances, high temperatures or other risks to injury, should have easily accessible and good maintained means for first aid (Article 1). Where the work involves risk of drowning, efficient means for rescue should be readily available (Article 2). An enterprise where at least 50 persons are actually present on the work floor at the same time should at least have one person available, who is exclusively or mainly entrusted with first aid activities. The minimum however is 30 persons in enterprises with moving equipment, explosive gases or unhealthy substances (Article 5). These persons only should administer first aid, except under special circumstances (Article 6).

### *Safety Regulation 4*

Safety Regulation 4 endeavours to **prevent the production and the spreading of hazardous materials, gas or dust; and to regulate their removal**. It also promotes hygiene in all enterprises. The obligations for the employer are to:

- avoid the use of white lead, sulphate of lead and all products containing these pigments in the internal painting of buildings or ships (Article 1 paragraph 1). Authorization can be granted by the Permanent Secretary for use in railway stations, and industrial establishments (Article 2);
- store or transport these substances after being mixed in oil or other fluid thickener in a certain way (Article 3);
- take measures on the prevention of illnesses caused by toxic paints, by providing for protective clothing, masks, helmets, warning signs etc. (Article 4);
- prevent the generating and spreading of substances caused by removal of paints and take measures for the escape of dust etc. (Article 5);

- provide for washing facilities, soap, towels etc. (Article 6); and
- provide for training of workers (Article 7).

It is prohibited to eat, drink and sleep in closed work spaces where paints containing lead or filler are used or being removed (Article 4 paragraph d).

#### *Safety Regulation 5*

The aim of this regulation is to **protect workers against hazards arising out of the weight of loads to be transported by sea or inland waterway**. According to the Regulation the sender of any package or object of 1.000 kg or more gross weight shall mark its gross weight plainly and durably on the outside before loading on a ship or vessel (Article 1). The weight should also be stated in the freight documents (Article 2 paragraph 2).

#### *Safety Regulation 6*

Safety Regulation 6 **prevents the occurrence of pneumoconiosis or other diseases caused by dust**. This technical and detailed Regulation contains some prohibitory provisions regarding:

- cleaning of objects with certain substances (Article 3) with exceptions to be made by the Inspector-General or ultimately the Labour Minister as the appellate authority (Articles 5 and 6);
- use, processing and sale of crocidolite and other substances (Articles 7 and 12) with exceptions to be made – not for crocidolite- by the Inspector-General or the Labour Minister as the appellate authority (Article 14); and
- use of asbestos (Article 8 and 9) with exceptions to be made by the Inspector-General or the Labour Minister as the appellate authority (Article 11).

The Safety Regulation furthermore contains some provisions on the release or generation of dust, which can lead to pneumoconiosis or other diseases (Articles 15, 16 and 17).

#### *Safety Regulation 7*

The aim of this Regulation is to **promote safe and comfortable working conditions**. Safety Regulation 7 contains detailed guidelines on a wide range

of subjects regarding all places in which work is carried on. The subjects of the guidelines are:

- preference of natural light on work floors, toilets, stairways and gangways so far as applicable (Articles 3 – 8);
- artificial light (Articles 9 – 11) and measures for lighting in case of emergency, in enterprises having at least 100 persons on the actual work floor at one time (Article 12);
- good conditions of temperature (Articles 13 – 19), ventilation and fresh air (article 20);
- noise and vibration (Articles 21 – 27); and
- excessively strenuous labour, hazardous to an employee's physical and mental well-being (Articles 28 – 32).

### *Safety Regulation 8*

Safety Regulation 8 aims to **protect workers against ionizing radiations**.

This detailed technical regulation contains provisions relating to:

- restriction of the exposure of workers to ionizing radiations at the lowest practicable level (Articles 2 and 4 paragraph 1);
- fixed maximum permissible doses and amounts of radioactive substances (Articles 2 and 4 paragraph 2);
- minimum age (18 years) and pregnancy/ maternity situations (Article 5);
- prevention of exposure to ionizing radiations and avoiding unnecessary exposure (Articles 6 – 8 and 20);
- technical requirements for the operation of x-ray apparatus (Articles 9 – 12);
- the obligation of workers to notify the employer in the event that a radioactive source has been lost, mislaid or stolen, and for the employer to have an inquiry (Article 19);
- safety provisions regarding buildings (Articles 13 and 14);
- (automatic) visual warning signs of hazards (Articles 15 and 28) and notification (Article 33);
- medical examination and measurements of exposure to radioactive substance (Article 16, 22, 30 and 32);
- establishment of special rooms (Article 24) with specific technical requirements (Article 35 – 39);
- measures such as decontamination, prevention of the spread of contamination, storage of clothing, consumption and washing

- facilities (Articles 25 and 26);
- personal protective equipment and devices (Article 27);
- short-time working and recreation (Article 31); and
- obligation of the worker to observe rules and regulations (Article 40).

The Inspector-General is entitled to give instructions on some provisions, while the Labour Minister can make exceptions regarding some (technical) requirements (Articles 41 and 42).

### *Safety Regulation 9*

Safety Regulation 9 **prevents hazardous risks to health by inhalation or exposure to noxious or irritating gases and fumes.** The provisions regulate the elimination, the release, generating or spreading of noxious or irritating gases and fumes in the working environment. Some prescribed measures relate to: workspaces, clothing accommodation and changing rooms, rest rooms, mess rooms, ventilation, fresh air, maximum permissible amounts of gas or fumes and preventive measures.

## **6.10 The Holidays Act**

The purpose of the Holidays Act (HA) is to guarantee annual holidays with pay for every worker engaged in an employment contract. Every employee is entitled to an annual holiday with pay (Articles 2 and 7, paragraph 2).

Agreements to relinquish the right to the annual holiday with pay are null and void (Articles 3 paragraph 1 and 4).

The Holidays Act prohibits the employee to be engaged in gainful activity during the holidays (Article 3 paragraph 2).

The minimum length of the holiday is for one uninterrupted calendar year of service, 12 days for the first year and an additional 2 days for the subsequent 3 years up to a minimum of 18 days after the fourth year. In the event of service less than one calendar year in the first year of service the employee is entitled to one day for every full month of service (Article 7).

The Holidays Act prescribes the way the holiday should be taken (Article 8). In this regard, the employer in consultation with the employee, determines the time at which the holiday is to be taken, unless otherwise fixed by collective bargaining agreements (Article 11).

The employee who is entitled to a holiday, receives over the relevant days, at least an additional 50% of the daily pay. The manner of calculation

is also determined by the Holidays Act (Article 10).

The employee shall receive, upon termination of employment, a holiday with pay proportionate to the length of service in that year for which he has not received such a holiday, provided that the worker is not dismissed on urgent grounds/serious misconduct (Article 12).

Employers are obliged to keep a holiday register with certain information (Article 14). Penalties on non-compliance with the Holidays Act are imprisonment and fine. The Labour Inspectorate supervises the observance of the regulation of the HA.

### **6.11 The Labour Mediation Act**

The Labour Mediation Act of 1946 is the key standard for collective labour dispute settlement in Suriname. The larger part of the Labour Mediation Act contains provisions regarding the four different means of intervention of the National Labour Mediation Council (BR) in labour disputes, the procedures and the legal consequences and outcome of the conciliation/mediation, arbitration or advisory services, and the code of conduct for the concerned parties.

Apart from those provisions, the Labour Mediation Act places obligations on witnesses, experts and relevant parties to appear before the BR (Article 51) and on chairpersons, members and secretaries of the BR and experts to observe confidentiality (Article 52). Penalties on breach of these obligations are fines, imprisonment and eventually, removal from office (Article 51 and 52).

The BR is not entitled to intervene in disputes between persons employed by the Government or a public corporation body, except when the employment is based on an employment contract (Article 54).

### **6.12 The Labour Exchange Act**

The institution of the Employment Agency Unit is mandated by the Labour Exchange Act (LEA). The LEA deals with two kinds of employment placement:

1. public employment placement; and
2. private employment placement (Article 1).

#### *1. Public Employment Placement*

The Labour Exchange Bureau (LEB), under the Employment Agency Unit, is the sole authority with the right to be engaged in public employment

placement (Article 2). Employment placement is a “constant activity with the aim to assist employers and jobseekers in finding labour and employment” (Article 1). The LEB arranges meetings between jobseekers and employers. It is up to them to freely conclude an employment contract. Services are provided for every worker and jobseeker without any distinction whatsoever (Article 3 paragraph 1). Requirements regarding religion, nationality, social orientation and membership of an association do not lead to any preferential treatment except in case of justifiable reasons (Article 3 paragraph 2).

Services of the LEB are free; additional costs made on requests of the employer or jobseeker should be compensated (Article 4).

The LEB does not place jobseekers in enterprises or parts of enterprises where workers are on strike or where the employer imposes lockouts or where such actions are expected (Article 5).

During a labour dispute, jobseekers are not eligible for LEB services if they are directly involved in strikes and lockouts or in disputes tending to lead to strikes and lock-outs (Article 5).

The LEB informs jobseekers on the common working conditions, if those proposed by the employer are different (Article 6). The LEB does not provide its services when this will lead to the conclusion of an employment contract less favorable than the collective bargaining agreement to which the employer and the jobseeker will be bound by (Article 7). The LEB is not responsible for the consequences of its job placement activities (Article 8). The Labour Exchange Bureau maintains a register of its clients (Article 9).

## *2. Private Employment Placement*

There are three kinds of private employment placement services in the Labour Exchange Act (Article 10):

- a. private employment placement service with profit motive, which is completely forbidden (Article 11);
- b. non-profit private employment placement, with compensation of costs. This is only allowed with permission of the Labour Minister (Article 12), who can withdraw such permission (Article 15); and
- c. non-profit private employment placement without any compensation whatsoever.

The organizations or persons engaged in private employment placement as stated in (b) and (c) above can only place jobseekers abroad, or foreign jobseekers in Suriname, with the permission of the Labour Minister (Article 14).

Investigation and supervision of the observance of the provisions of the Labour Exchange Act are the responsibilities of the Labour Inspectorate, police or special officials of the Minister (Articles 17 and 20).

Imposition of fines and imprisonment are the penalties for offences against rules of the Labour Exchange Act (Articles 18 – 20).

### **6.13 Dismissal Permits Act**

The aim of the Dismissal Permits Act is to protect workers, promote job security and prevent unjustified dismissal or layoff. The Dismissal Permits Act prohibits employers to dismiss employees without permission (dismissal permit) of the Labour Minister – via the Dismissal Board –, except in case of:

- civil servants;
- termination on mutual consent;
- termination during probationary period;
- termination ipso jure; and
- termination on urgent grounds (Articles 1, 2 and 3).

Applications for the permit should be in writing in a certain format (Article 4). The Dismissal Board is established by the Labour Minister to decide on the application, on behalf of the Labour Minister. The Board decides on applications within 30 days after receiving the applications. In case of the absence of a decision within 30 days, the permit is considered to be granted. Conditions can be attached to a permit (Article 5).

The permit allows employers to terminate an employment contract and observe the minimum legal term of notice (Article 6).

Termination without permission, when such is required, is null and void (Article 7). On the other hand, in the event of termination for urgent reasons by the employer, immediate notification within 4 days is required (Article 3, paragraph 2). The termination does not take effect until the Inspector-General, on behalf of the Labour Minister, expresses his approval or objection within 14 days (Article 3 paragraph 3).

Penalties for offences in the Dismissal Permits Act are fines and imprisonment (Article 8).

According to the Dismissal Board Decree (1986):

- the Board consists of 5 or 7 members mostly labour officials (Article 3);
- the Labour Minister introduced a model application form (Article 5); and

- the Board has to hear the employer, the worker(s), and the labour union, if existing, before deciding (Article 6) and has the power to summon parties to appear and to submit information (Article 7).

The Dismissal Board Decree deals with some procedural matters. By virtue of the Dismissal Board Decree, the Labour Minister gave some instructions in 1994 by Ministerial Order, for the consideration of applications. The issues dealt with in this ministerial order are:

- the criteria to be used when considering individual dismissal;
- collective redundancy for organizational or economic reasons and related specifically to operational requirements; and
- simplified procedures for certain categories of workers (management, employed clergymen, employees older than 60 years not entitled to pension etc.).

#### **6.14 The Work Permits Act**

The aim of the Work Permits Act is to regulate the number of foreign workers on the Surinamese labour market. The Work Permits Act prohibits employers to employ foreigners without a work permit granted by the Permanent Secretary (Article 3).

This obligation does not apply:

- a. in the case of civil servants (Article 1 paragraph 2);
- b. to bilateral agreements with other States or Conventions (Article 2);
- c. to foreigners with a Surinamese spouse (Order of the Minister of Labour and Public Health of , 13 October 1983);
- d. to remigrants of Surinamese origin (idem);
- e. to legal refugees (idem); and
- f. to categories of CARICOM citizens for whom a permit is not required as mentioned in the Revised Treaty of Chaguaramas.

A work permit is applied for by the employer and the worker concerned (Article 4 paragraph 1).

The Labour Minister introduced an application form as required by law (Article 4, paragraph 2). Applications are not considered until:

- a. full information and evidence is submitted; and
- b. a residence permit is submitted or evidence that the residence permit is applied for (Article 4 paragraph 4).

The Head of the Work Permits Department, on behalf of the Permanent Secretary, grants the permit within 30 days after application. The period

can be extended for another 30 days (Article 4 paragraph 5). The permit is granted to the employer for one employee for a certain kind of labour (Article 5 paragraph 1).

An application for a work permit shall be rejected in the case where there is a rejection of the residence permit to a foreigner or in the event he/she is declared an undesirable alien (Article 6). An application for a work permit can be rejected for employment for which Surinamese labour is available or expected to be available on the labour market (Article 7).

A permit can be withdrawn:

- a. if residence in Suriname is not allowed anymore, except if the foreigner cannot be deported (Article 8);
- b. if incorrect or incomplete information has been furnished, influencing the issuance of the permit (Article 9); and
- c. if the permit is not of use anymore (Article 9).

All decisions related to work permits are in writing (Article 10).

The Labour Minister is the appellate authority against the rejection or withdrawal of work permits (Article 11). Offences of the provisions of the Work Permits Act are punished by fines and imprisonment (Article 12). The Labour Inspectorate, police and special officials of the Labour Minister investigate offences of the Work Permits Act (Article 14).

### **6.15 The Free Movement of CARICOM Skilled Nationals Act**

The Free Movement of CARICOM Skilled Nationals Act (CSNA) implements Articles 45 and 46 of the Revised Treaty of Chaguaramas regarding the free movement of CARICOM skilled nationals.

According to the CSNA, all CARICOM nationals can apply for recognition of the status of CARICOM skilled national to the Minister of Labour (Article 4 paragraph 1). The recognition constitutes:

- a. issuance of a Certificate of Recognition of Caribbean Community Skills Qualification ; or
- b. verification of an issued certificate as mentioned by another CARICOM member state.

The CSNA gives the Minister of Labour, Technological Development and Environment the authority to certify five categories of CARICOM Nationals by issuing a Certificate of Recognition of Caribbean Community Skills Qualification. Those CARICOM Nationals are entitled to work in

other CARICOM territories of countries participating in the CARICOM Single Market and Economy, eventually after verification.

The Minister of Labour, Technological Development and Environment grants CARICOM skilled nationals certified by another participating member state of CARICOM unrestricted access to the labour market after verification of the certificate. The Minister of Labour can revoke the Certificate of Recognition of Caribbean Community Skills Qualification issued by him/her.

The Commission on Free Movement of Persons (CFMP), consisting of representatives of seven ministries, advises the Minister of Labour on free movement issues and deals with applications regarding the issue or verification of certificates and advises the minister in this regard. The Commission on Free Movements of Persons furthermore coordinates the preparation and adoption of legislation, procedures and guidelines on the free movement of CARICOM skilled nationals and advises other ministries on these matters. The Commission also deals with complaints of CARICOM skilled nationals related to free movement.

The Commission on Free Movements of Persons consists of representatives of the following seven ministries:

- a. Labour, Technological Development and Environment;
- b. Trade and Industry;
- c. Education and Public Development;
- d. Justice and Police;
- e. Defense;
- f. Foreign Affairs; and
- g. Internal Affairs.

The five categories of CARICOM skilled nationals are:

- a. academics;
- b. media workers;
- c. sportspersons;
- d. musicians; and
- e. artists

## **6.16 The Penal Code**

### *Child Labour*

Legal representatives are liable to punishment if they offer persons younger than 12 years under their guardianship to another person, knowing that they

will be engaged in labour hazardous to their health or otherwise (Article 311).

### *Forced Labour*

The Court of Justice has the competence to determine whether a convicted person shall be employed in public works (Article 14). The prisoner is obliged to perform labour as ordered to him according to the laws applicable for prison (Articles 16 and 39). Persons convicted and imprisoned are free to perform labour of their choosing subject to applicable rules in prison. If he/she fails to do so, he/she can be ordered to perform labour according to laws applicable (Article 37).

### *Employment contract on ships*

The Penal Code contains some provisions on the employment contract on ships (Articles 455 – 458 and 462-463).

## **6.17 The Commercial Code**

The employment between crew members and shipowners is regulated by the Commercial Code (Book II, Title IV, paragraph 2). According to the Commercial Code “crew members” are only those who have concluded an employment contract with shipowners (Article 490). All rules of the Civil Code are applicable on the employment relationship between crew members and ship-owners if not stipulated otherwise in the Commercial Code (Article 491).

The employment contract should be in writing in order to be valid (Article 492).

The provisions of the Commercial Code (Book II, Title IV, paragraph 2) are related to:

- the duration of the employment contract (Articles 493 – 495 and 504-506);
- formal requirements regarding the employment contract (Articles 496 and 497);
- minimum age (Articles 498 – 500);
- standing employment conditions (Articles 501 – 503);
- food, nourishment and facilities (Articles 507 – 510);
- weapons (Article 511);
- remuneration (Articles 512 – 514 and 527 – 531);

- holidays and rest (Article 515);
- employment injury (Articles 516 and 517);
- authority of the captain (Articles 490, 518 – 521 and 523);
- disembarking (Articles 522 – 523);
- fine (Articles 524 – 525);
- compensation to wife and children (Article 526);
- termination of employment (Articles 531 – 548);
- testimonial (Article 549); and
- salvage, towing, shipwreck and transportation (Articles 550 – 553).



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# Index

## A

Adult vocational training 4.6  
Agriculture 5A  
Agriculture, Cattle Breeding and Fisheries, Ministry of - 4.8  
Arbitration tribunal 2.5; 6.11  
ASFA 3.9

## B

Break 6.2  
Buildings 5E

## C

C-47,Vakcentrale 1;  
CARICOM 3.9;4.1;6.14;6.15  
CARICOM committee 4.1  
Certificate of Recognition of Caribbean Community Skilled Qualification 6.15  
Children 5A;5B;5F;5H;6.2;6.9;6.16;6.17  
Civil Code (CC) 2.4;6.1;6.2;6.17  
Collective bargaining agreements 2.2;2.3; 2.4.2.5;3.2;3.9;5A;5D;6.3;6.4;6.12  
Collective Bargaining Agreements Act (CBAA) 2.4; 3.2;3.9;6.3  
Collective Bargaining Agreements Registration 3.9  
Collective redundancy 4.4;6.13  
Commercial Code 6.17  
Commission on Free Movement of Persons 6.15  
Conciliation 2.5;5D;6.11  
Constitution 1;2.1;2.2  
Contract or instruction to render services 6.1  
Contracting for work 6.1  
Cooperatives 3.8;4.5;4.8  
Council of Ministers 3.1;3.2;5.1

## D

De Moederbond 1  
Deductions 6.1  
Defence, Ministry of 6.15  
Dependants 5F;6.7  
Disabled persons 3.8  
Dismissal 4.4;6.6

Dismissal Board 3.2;4.4;6.13  
Dismissal Board Decree 6.13  
Dismissal permit 4.4;6.13  
Dismissal Permits Act 3.2;3.6;4.4;6.13  
Dissolution labour union 2.3  
Dock work 5E;6.9

## E

Education and Public Development, Ministry of - 4.6;6.15  
Employment Agency 3.8;3.12  
Employment contract 6.1;6.3;6.11;6.16;6.17  
Employment Policy 3.4;3.8;5B  
Equality of treatment 2.1;5A;5B;5F;6.12

## F

Facilities, labour union 2.3;5A;6.6  
Fehoma 1  
Fine 6.1  
First aid 6.9  
Forced labour 5A;6.2;6.16  
Foreign Affairs, Ministry of- 5.1;6.15  
Foundation for Productive Work Units (SPWE) 4.5  
Foundation of Labour Mobilization and Development (SAO) 6.4  
Freedom of association 2.2;2.4;5A;5B;6.6  
Free movement of CARICOM skilled nationals 6.15  
Free Movement of CARICOM Skilled Nationals Act 6.15

## G

General Bureau for Statistics 3.8  
Geological Mining Service 6.9

## H

Hazardous gas 6.9  
Holidays 3.3;5E;6.1;6.10  
Holidays Act 3.3;6.10

## I

ILO 3.9;4.1;4.6;5  
ILO committee 3.9  
ILO Convention 87 2.3;5A  
ILO Convention 135 2.3;5A

Industrial accident 3.2;3.6;5F;6.7;6.8;6.9  
Industrial Accidents Act (SOR) 3.2;3.6;6.7  
Industrial disease 6.7;6.8  
Industrial Injuries Committee 3.5;6.7  
Inspector-General 3.2;3.5;3.6;4.4;6.2;6.9;6.13  
International Affairs 3.9

## **J**

Jobseekers 3.8;4.5;6.12  
Justice and Police, Ministry of - 6.15

## **L**

Labour Advisory Board (AAC) 1;4.1;5.1  
Labour Code 3.2;3.6;6.2  
Labour dispute 2.5;4.3;6.11  
Labour dispute settlement 2.5;4.3;6.11  
Labour Exchange Act 6.12  
Labour Exchange Bureau 6.12  
Labour Inspectorate 1;3.5;3.6;3.8;4.4;  
5C;6.1;6.2;6.10;6.14  
Labour Inspection Decree 3.5;3.6  
Labour inspectors 3.5;3.7  
Labour Legislation 3.9  
Labour Market Analysis 3.8  
Labour Market Department  
Labour Mediation Act 2.5;4.3;6.11  
Labour policy 2.1;2.2  
Labour statistics 3.8  
Legal and International Affairs 3.9  
Legal Bureau 3.5

## **M**

Maternity 5B;6.1  
Mediation 2.5;6.11  
Medical Bureau 3.5  
Medical care 5F;6.7  
Migrant workers 3.8;5B;5F;6.12;6.14  
Minister of Labour, Technological Develop-  
ment  
And Environment 1;3.2;3.4;3.5;3.6;  
4.1;6.2;6.9;6.12;6.13;6.14;6.15  
Minors  
Moederbond 1  
Multi Annual Development Plan (MOP) 1

## **N**

National Assembly 1;5.1  
National Board for Occupational Health(NRB)  
4.2  
National Labour Mediation Council (BR)  
2.3;2.5;  
4.3;6.5;6.11  
Natural Resources, Ministry of - 4.8  
Night Work 5G; 6.2  
Non-competition clause 2.4

Notice period 6.1;6.13  
No-work-no-pay 6.1

## **O**

OAS 3.9  
Occupational safety and health  
3.2;4.2;5B;5E;5F;6.8;6.9  
Occupational Safety and Health Act  
(OSHA) 3.3;6.8  
Overtime 6.2

## **P**

Penal Code 6.16  
Penalties 6.2;6.4;6.6;6.7;6.8;6.9;6.14  
Permanent Secretary (PS) 2.3;3.2;3.3;  
3.9;6.7;6.8;6.9;6.14  
Placement 3.8;4.6  
Policy Declaration 1  
Policy Document 1  
President 3.1;3.2  
Private employment-finding 5B;6.12  
Probationary period 6.1  
Productive employment 4.5;5B  
Protection of workers' representatives  
2.3;5A;6.6  
Protection of Workers' Representatives  
Decree (PWRD) 2.3;6.6  
Public employment-finding 3.8;5B;6.12  
Public Health, Ministry of - 4.2

## **R**

Radiation, ionizing 6.9  
Radioactive substance 6.9  
Ratification 5.1;5C  
Recognition of labour unions 2.3;6.4  
Recognition of Labour Unions Decree  
(RLUD) 2.3;6.4  
Referendum on Recognition of  
Labour Unions Decree (RRLUD) 2.3;6.5  
Research Bureau 3.5  
Rest 2.1;5E;6.2  
Right to organise 2.2

## **S**

Safety Inspection 3.5  
Safety Regulations 6.8;6.9  
Shift work 6.2  
Ships 5F;6.16;6.17  
Sickness 5F;6.1  
Small enterprises 3.8;4.5  
Social and Economic Council (SER) 2.6  
Social Inspection 3.5  
Spouses 6.1  
Standing employment conditions 2.4;6.1  
State Counsel 5.1

Strike 2.2;5A;6.1;6.12  
Supply and demand of labour 3.8  
Suriname Labour College(SIVIS) 4.7

## **T**

Termination 4.4;6.1;6.10;6.13;6.17  
Termination by mutual consent 4.4;6.1;6.13  
Termination during probationary period  
4.4;6.13  
Termination ipso jure 4.4;6.13  
Termination on urgent grounds  
4.4;6.1;6.10;6.13  
Terms of Reference 3.1;3.4  
Testimonial  
Trade and Industry, Ministry of -  
4.5.4.8;6.15  
Trade union rights and duties 2.3  
Transport, Communication and  
Tourism, Ministry of - 4.8  
Tripartite consultation 2.6;4.1  
Types of contract 6.1

## **U**

Under-employment 5B  
Unemployment 3.8;5B

## **V**

Valmek 1  
Vice-President 3.1  
Vocational guidance 3.8  
Vocational training 4.6  
VSB 3.9

## **W**

Wages 3.8;5E;6.1;6.2;6.17  
White lead 5E;6.9  
Women 3.8;4.6;5G;6.9  
Workers participation 2.2  
Working Hours 6.2  
Work permit 3.2;3.4;3.8;6.14  
Work Permits Act 3.2;3.3;6.14

## **Y**

Young persons 3.8;4.6;5E;5H;6.2;6.9