# THE EMPLOYMENT CODE BILL, 2019

#### MEMORANDUM

The objects of this Bill are to—

- (a) regulate the employment of persons;
- (b) prohibit discrimination at an undertaking;
- (c) constitute the Skills and Labour Advisory Committees and provide for their functions;
- (d) provide for the engagement of persons on contracts of employment and provide for the form and enforcement of the contracts of employment;
- (e) provide for employment entitlements and other benefits;
- (f) provide for the protection of wages of employees;
- (g) provide for the registration of employment agencies;
- (h) regulate the employment of children and young persons;
- (i) provide for the welfare of employees at an undertaking;
- (j) provide for employment policies, procedures and codes in an undertaking;
- (*k*) repeal and replace the Employment Act, 1965, the Employment (Special Provisions) Act, 1966, the Employment of Young Persons and Children Act, 1933 and the Minimum Wages and Conditions of Employment Act, 1982; and
- (1) provide for matters connected with, or incidental to, the foregoing.

A. Mwansa, Solicitor-General

### THE EMPLOYMENT CODE BILL, 2019

#### ARRANGEMENT OF SECTIONS

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### PRELIMINARY PROVISIONS

#### Section

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- 2. Application
- 3. Interpretation
- 4. Compliance with other laws
- 5. Nondiscrimination at undertaking
- 6. Protection of persons with disabilities
- 7. Prohibition of casualisation
- 8. Prohibition of forced labour

#### PART II

# THE LABOUR COMMISSIONER

- 9. Labour Commissioner and other staff
- 10. Powers of Labour Commissioner
- 11. Certificate of appointment
- 12. Power to require returns
- 13. Duties of public officers

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# **Division 3.1 Contract of Employment**

- 14. Priortisation of employment for citizen
- 15. Governing law of contract employment
- 16. Minimum contractual age
- 17. Medical examination
- 18. Record of oral contract of employment
- 19. Presumption as to period of oral contract of employment
- 20. Presumption as to new contract of employment
- 21. Contract of employment required to be in writing
- 22. Contents of written contract of employment
- 23. Contract of employment not binding on family of employee
- 24. Regulation of fixedterm contract of employment

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- 25. Attestation
- 26. Duty of authorised officer in attesting written contract of employment

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- 27. Probation
- 28. Transfer of contract of employment
- 29. Refusal to consent to transfer to other employer
- 30. Security in contracts of foreign service
- 31. Foreign contracts of employment and contracts made abroad
- 32. Inducing persons to proceed abroad without a contract of foreign service

# **Division 3.2 Employee Benefits**

- 33. Repatriation
- 34. Employer to provide transport on repatriation
- 35. Paid Public Holidays
- 36. Annual leave
- 37. Annual leave benefits formula
- 38. Sick leave and medical discharge
- 39. Compassionate leave
- 40. Family responsibility leave
- 41. Maternity leave
- 42. Fitness to resume work
- 43. Protection against dismissal connected with maternity leave
- 44. Protection from harmful work
- 45. Nursing breaks
- 46. Paternity leave
- 47. Mother's day
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# **Division 3.3** Suspension and Termination of Contract of Employment

- 49. Suspension of employee
- 50. Summary dismissal
- 51. Right to wages on dismissal for lawful cause
- 52. Termination of contract of employment
- 53. Notice for termination of contract of employment
- 54. Severance pay
- 55. Termination by redundancy
- 56. Exemption from paying redundancy package
- 57. Re-engaging redundant employees

- 58. Termination by retirement
- 59. Certificate of service, testimonial or reference

# **Division 3.4 Employment of Expatriates**

- 60. Duties of employer employing expatriate
- 61. Prohibitions relating to employment of expatriates
- 62. Register of expatriate staff in Republic

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- 63. Constitution of Skills Advisory Committee
- 64. Composition of Skills Advisory Committee
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#### PROTECTION OF WAGES

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- 67. Method of payment of wages
- 68. Authorised deductions
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- 70. Disposal of wages
- 71. Record of wage payments to be kept by employer
- 72. Explanation of wages and conditions of employment
- 73. Payment of gratuity
- 74. Hours of work
- 75. Over time
- 76. Weekly rest
- 77. Meal and health breaks
- 78. Wages not to accrue during imprisonment
- 79. Offences relating to protection of wages

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### EMPLOYMENT OF YOUNG CHILDREN AND YOUNG PERSONS

- 80. Interpretation
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- 82. Prohibition of employment of child in covered work sites
- 83. Prohibition of employment of child or young person in worst form of labour
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- 85. Register of young persons in industrial undertaking
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