



Labour Laws Primer

Produced by:

GOVERNMENT OF GUYANA
Ministry of Labour, Human Services & Social Security
Labour, Occupational Safety and Health Department

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“Embracing the Fight against HIV and AIDS in the Workplace”

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Preface

The “LABOUR LAW PRIMER” is a document which sets out the basic principles of employment in Guyana and is intended to guide employers and employees generally.

Every citizen has the right to work, duty to the work and the right to leisure. These rights and duties are provided for by the Constitution of Guyana.

Employment provides income to workers and contributes to economic development.

The Labour Laws of Guyana provide a measure of guarantee through procedures and institutions, for the maintenance of a stable industrial relations climate.

Employers and employees or representatives of their organisations can consult the Ministry of Labour, Human Services and Social Security for advice on the provisions of the Labour Laws and Industrial Relations practices.

In this primer, information on recruitment, the contract of employment and other legislated provisions in relation to the employment of labour, labour statistics and collective bargaining are outlined.

Recruitment

(Equal Rights And Non-discrimination)

All employers, at the time of recruiting labour, must observe the provisions of the Equal Rights Act, No. 19 of 1990 and the Prevention of Discrimination Act No. 26 of 1997. These Acts provide protection against discrimination in employment in respect of race, sex, religion, colour, ethnic origin, indigenous population, national extraction, social origin, economic status, political opinion, disability, family responsibilities, pregnancy, marital status or age except for the purpose of retirement or employment of minors.

It shall be unlawful in recruitment, selection or employment to discriminate in respect to the above grounds on:

- a) Arrangements made for the purpose of determining who should be offered employment;
- b) The advertisement of the job;
- c) The terms on which employment is offered;
- d) The refusal or deliberate omission to offer employment; and
- e) Denying or limiting access to opportunities for promotion, transfer or training or to any other benefits, facilities or services associated with employment.

Both Acts provide for women and men to be paid equal remuneration for the same work or work of equal value.

If suitable persons, as required from time to time, are not available in Guyana, the employer would then have the option of recruiting persons elsewhere. In such instances, the employer will need to acquire an employment permit from the Ministry of Home Affairs.

Section 2

The Contract of Employment

Most of the provisions encompassed under the Labour Laws relate to employment under a contract of service. The other type of employment contract is the contract for services.

The contract of service is where the employee is under the control and supervision of the employer as to the manner of executing the work.

The contract for services is where a person is engaged to do a task within stipulated guidelines and is akin to an independent contractor.

The contract of employment should include all basic terms and conditions of employment such as wages/salaries, hours of work, overtime and leave. If agreed upon, other benefits, for example, bonuses, sickness benefits, promotion, redundancy, superannuation, disciplinary procedures may be included.

As far as practicable, upon employment, an employee must be advised of the likely duration of his/her contract of employment and whether he/she is to be paid for his/her services by the task or by the day and at what rate for the task or day as the case may be.

An employee is subject to a probationary period of three (3) months, but the parties can agree to a longer or shorter period. Either party can terminate the contract of employment at any time during the probationary period for any reason and without notice.

Differences between employer and employee usually arise as a consequence of either person failing to observe the terms and conditions of the employment contract. Therefore, it is advisable that the terms and conditions of employment agreed upon between the employer and the employee be put in writing. Terms and conditions must be no less favourable than the legislated provisions.

Employers can be subjected to penalties, as provided for by the Labour Laws for breaches of the legislated provisions and are, therefore, advised to consult the relevant legislations or the Labour Occupational Safety and Health Department of the Ministry of Labour, Human Services and Social Security.

Notwithstanding the legislated provisions in relation to the contract of employment, it is generally the custom and practice for employees to be subjected to a disciplinary code.

Legislated Provisions In Relation To Employment Of Labour

The Laws of Guyana prescribe provisions for the treatment of wages, normal hours of work and overtime, leave with pay, safety, health and welfare, accidents and occupational diseases, termination of employment and severance pay, registration and regulation of industrial establishments, collective agreements, labour statistics, employment of young persons, the duty of employers to keep records, the manner in which these records must be kept and the social security of labour.

Some of the Legislations impacting on the employment relationship are:

1. Labour Act Cap. 98:01
2. Termination of Employment and Severance Pay Act No. 19 of 1997 Cap. 99:08
3. Wages Council Act Cap. 89:04
4. Leave With Pay Act No. 6 of 1995 Cap. 99:02
5. Shops (Consolidation) Act Cap. 91:04
6. Prevention of Discrimination Act No. 26 of 1997 Cap. 99:09
7. Occupational Safety and Health Act No. 32 of 1997
8. Labour (Conditions of Employment of Certain Workers) Act No. 18 of 1978
9. Trade Union Recognition Act No. 33 of 1997 Cap. 98:07
10. Employment of Young Persons and Children Act No. 9 Cap. 99:01
11. Licensed Premises Act Cap 82:22
12. Factories (Hours and Holidays) Act Cap 95:02
13. Bakeries (Hours of work) Act Cap. 99:06
14. Household Service Workers (Hours of work) Act Cap. 99:07
15. Essential Services Act Cap. 54:01
16. Steam Boilers Regulation Act Cap. 95:04
17. Factories (Hours of Holiday) Act Cap. 95:02

Section 4

Treatment Of Wages

Wages is remuneration paid by an employer to an employee for performing work for the employer, whether for a definite period or indefinite period and whether the amount is fixed or unfixed. Except where otherwise permitted by Part 5, the entire amount of the wages earned by or payable to any employee in respect of any work done by him shall be actually paid to him in money and not otherwise.

Section 17 of the Labour Act, Chapter 98:01 provides as follows:

- (1) Where an employer offers any work to an employee, he shall inform him, either at the time of the offer or as soon thereafter, on the same day as may be practicable, whether he is to be paid for his services by the task or by the day, and at what rate for the task or day, as the case may be;
- (2) Upon the payment to an employee of his wages, an employer shall inform the employee of the particulars of such wages in so far as such particulars may be subject to any changes.

Some other provisions impacting on wages are:

- a) Wages are to be paid at weekly, fortnightly or monthly intervals as the case may be except where there is an agreement to the contrary.
- b) Payments of wages must be made on working days only, and, at or near the work place unless more appropriate arrangements are made.
- c) Every employee has the right to recover the entire amount of his/her wages, exclusive of sums lawfully deducted.
- d) No condition must be imposed on any employee as to the place and manner of spending his/her wages.
- e) An employer is permitted to make advance payments to his employee in anticipation of the regular period of payment of his wages, but no deduction can be made in respect of such advance on account of poundage, discount, interest, commission or any similar charges.
- f) A contract with an employee for giving to him food, drink not being intoxicating, a house, cottage, tenement or room or other allowance or privilege, as partial payment of wages in addition to money/wages as remuneration for his services is only permitted if the employee requests such allowance on the basis that it is appropriate for his personal or family use and benefit and the value of that allowance is fair and reasonable and has been agreed upon by the employer and employee.

Treatment Of Wages

Some other provisions impacting on wages are:- (cont'd)

- g) *Deduction from wages which are permitted and legal includes:*
- i) Any unpaid rent of any land, house, cottage, tenement or room let by the employer to the employee;
 - ii) Any medicine or medical attendance supplied by the employer to the employee at the employee's request;
 - iii) The actual or estimated cost to the employer of any materials, tools and implements supplied by the employer at the employee's request to be utilized by him in his occupation;
 - iv) Any victuals (food) supplied by the employer to the employee at the employee's request;
 - v) The actual or estimated cost to the employer of any goods supplied by the employer to the employee for the personal use of the employee, at his or her request; and
 - vi) Any money advanced by the employer to the employee (whether paid to the employee himself or to some other person at the employee's request) in anticipation of the regular period of payment of his wages.

Provided that the total amount which may be stopped or deducted from the wages of an employee in any one month in respect of such advance must not exceed one third (1/3) of the wages of the employee for that month.

Section 26 of the Labour Act, Chapter 98:01 provides as follows:

No wage shall be paid to any employee at or within any retail spirit shop, tavern or place for the sale of any spirit, rum, wine, beer or other spirituous or fermented liquor, or any office, or place belonging thereto or occupied therewith, save and except such wages are paid by the resident owner or occupier of such retail spirit shop, tavern or place to any employee bona fide employed by him.

Government contractors are subjected to the provisions of the Fair Wages Rules 1946 which shall be implied in every contract and they are advised to contact the Ministry of Labour, Human Services and Social Security for advice on wages, hours and conditions of employment of their employees.

Section 4

Treatment Of Wages

Minimum rates of wages are provided by law for the following industries/occupations:

Security Guards	Taverns
Retail Spirit Shops	Liquor Stores
Restaurant	Cook-shops
Parlours	Hotels
Guest Houses	Discotheques
Night Club and Liquor Restaurants	Dry Goods Stores
Hardware Stores	Groceries
Drug Stores	Mechanical Transport
Cinemas	Shirt and Garment Factories
Sawmills	Timber Grants
Petrol Filling Stations	

Employers and employees are advised that the rates prescribed are the **minimum permitted** to be paid and should be treated as such and does not preclude paying higher wages..

Agreed rates of wages, which are the rates of wages agreed upon between the employer and employee in an employment relationship enjoy all the protection for wages under the Labour Act.

Appendix A shows the prescribed rates effective March, 2008.

Normal Hours Of Work And Overtime

The normal hours of work is generally eight (8) per day except otherwise prescribed by statute. Notwithstanding the aforementioned, employers and employees or their representatives may, by agreement, implement less than eight (8) normal hours of work per day in the employment relationship.

Overtime constitutes all the time worked by the employee in excess of the normal hours on any day or in any week and for factory locations for work on Sundays and public holidays. The statutory normal hours of work for various categories of employees are shown in the following table.

Groceries, Drug Stores, Dry Goods Stores, Hardware Stores, Restaurants, Parlours, Cook-Shops, Hotels, Guesthouses, Liquor Restaurants, Night Clubs, Discotheques, Barbers and Hairdressers Establishments, Retail Spirit Shops, Liquor Stores, Taverns	Seven and one-quarter (7 ¼) hours per day and Forty and three-quarters (40 ¾) hours per week
Sawmills, Security Guards, Laundries, Petrol Filling Stations, Aerated Water Factories	Eight (8) hours per day or Forty-Four (44) hours per week
Factories, Waterfront	Eight (8) hours per day
Mechanical Transport, Household Service Workers	Eight (8) hours per day or Forty-eight (48) hours per week
Printing Trade	Eight (8) hours per day or Forty-two(42) hours per week
Cinema: Operators, Cashiers, Clerical Assistants	Forty-five (45) hours per week
Cinema: General Staff, Guards	Forty-eight (48) hours per week

Section 5

Normal Hours Of Work And Overtime

The Labour (Conditions of Employment of Certain Workers) Act No. 18 of 1978, provides for payment at the rate of one and one half (1 ½) times the normal rate of pay to employees of Restaurants, Cook-shops, Parlours, Snackettes, Hotels, Guest Houses, Taverns, Liquor Restaurants, Discotheques, Night Clubs and Retail Spirit Shops for all hours worked on all Sundays and all Public Holidays.

Workers employed in factory locations are to be paid double their normal rates of pay for working on Sundays and the following Public Holidays:

1. Labour Day (May 1st)
2. Good Friday
3. Easter Monday
4. Christmas
5. Eid-ul-Adha
6. Phagwah

All other public holidays attract payment at one and a half (1 ½ times) the normal rate of pay. If any holiday falls on a Sunday then the following day will attract this rate of overtime.

Leave With Pay

The granting of annual leave to all categories of employees in Guyana is provided for by the *Leave With Pay Act*, No. 6 of 1995. Section 7 of the *Act* states:

“Any provision in any agreement between an employer and a worker whereby the worker purports to contract himself out of the provision of this Act, or whereby the worker undertakes to receive any less benefit than he is entitled to under this Act shall be of no effect”.

The Act, also provides as follows:

- Section 3**
- 1) Every worker shall be allowed a period of leave with pay of not less than one day for each completed month of employment.
 - 2) Every worker who is employed on a half-day basis, shall have the half day counted as a day in the computation of periods of employment and leave with pay.
 - 3) Every worker who is employed on a daily or hourly basis, shall be allowed a period of leave with pay of not less than one (1) day for every period of twenty (20) days or one hundred and sixty (160) hours worked as the case may be.
- Section 4**
- 1) No employer shall require a worker to take his leave with pay in periods of less than six (6) consecutive days, provided that any of the days which are Sundays or Public Holidays shall not be computed as leave with pay under this *Act*.
- Section 5**
- 1) In respect of a period of leave with pay, the employer shall pay the worker for each day of such period his current daily wage.
 - 2) If the worker so requests, the wage payable in the course of the leave shall be paid to him before such leave commences.
- Section 6**
- When the employment of a worker is terminated, either by such worker or by the employer, the employer shall pay to such worker in lieu of such period of leave with pay as shall have accrued under this *Act* and in respect of which no payment has been made, a sum equal to the wages which would have been paid for a like period of leave with pay if taken at that date.

Section 8 of the said *Act* provides for every employer to keep records which are prescribed to show that the provisions of the *Act* are being complied with in respect of persons in his employment.

Section 6

Leave With Pay

Section 9 of the Act states:

Any employer who:

- a) Fails to allow a worker any leave with pay to which such worker is entitled to under the *Act*;
- b) Enters into any contract, any of the provisions of which is of no effect under *Section 7*;
- c) Fails to keep any record as may be prescribed under *Section 8*, or knowingly makes or causes or permits to be made any false entry in such records; or
- d) Contravenes any of the provisions of any regulation made under *Section 12*

shall be liable on summary conviction to a fine of not less than twenty thousand dollars and not more than twenty five thousand dollars.

Safety, Health And Welfare

Safety, Health and Welfare are covered under:

- i) The Occupational Safety and Health Act No. 32 of 1997
- ii) The Employment of Young Persons and Children Act No. 9 Cap. 99:01
- iii) The Labour (Conditions of Employment of Certain Workers) Act, No. 18 of 1978

The Occupational Safety and Health Act No. 32 of 1997.

The Occupational Safety and Health Act is the primary legislation governing Safety and Health in the workplace. Its purpose is to protect workers against unsafe and unhealthy working conditions. It sets out the rights and duties of all parties in the workplace and procedures for the enforcement of the legislation in the absence of voluntary compliance.

The act is based on a joint responsibility system whereby employer and workers work together to identify problems and develop the relevant solutions.

The joint responsibility system is based on the following components of the law:

- The requirement for employers to have a Safety and Health Policy and Programme to implement the policy;
- The placing of responsibility on officers and directors of a company to ensure that the Act is complied with;
- The requirement for a Joint Safety and Health Committee to be established in the workplace;
- The specification of rights of workers with respect to Workplace Safety and Health;
- The general and specific responsibilities of employers, supervisors and workers.

The general duties and responsibilities of an employer are contained in Section 46 of the Act and can be summarized as follows:

- Ensure that the equipment, materials and protective devices and clothing as prescribed, are provided by the employer and are maintained in good condition;
- Ensure that the physical structure of the workplace is sound with respect to the work performed there;
- Ensure that the work in the workplace is carried out in an environmentally safe manner;

Section 7

Safety, Health And Welfare

- Provide information, instruction, supervision, assistance and training to the workers and others such as supervisors and medical practitioners with respect to Workers Safety and Health;
- Assist and co-operate with the Safety and Health Committees and Representatives;
- Not to employ under aged workers or knowingly have under aged persons in or near the workplace;
- Take every reasonable precaution to protect the workers;
- Prepare a written Occupational Safety and Health Policy, review it periodically and implement it in consultation with the joint Workplace Safety and Health Committee or safety and health representative;
- Post the *Act* with explanatory material and the policy in a conspicuous position in the workplace.

The general duties of a worker are contained in Section 49 of the Act and can be summarized as follows:

- Use or wear the equipment, protective devices and clothing provided;
- Report to his or her employer or supervisor any absence of or defect in any equipment or protective devices and clothing of which the worker is aware;
- Take care of their personal protective equipment, devices and clothing provided;
- Use or operate any equipment, machine, device or article of work in a manner that will not endanger himself or any other worker; and
- Not to engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct.

Some other provisions for the Health and Welfare of workers are:

- 1) Under the Labour (Conditions of Employment of Certain Workers) Act No. 18 of 1978, which covers workers in Hotels, Guest Houses, Restaurants, Parlours, Cook-shops, Liquor Restaurants, Night Clubs and Discotheques are:
 - a) Workers are entitled to an interval from work of not less than one (1) hour for lunch or dinner as the case may be and another interval of not less than fifteen (15) minutes for taking of a meal for every four (4) hours or part thereof worked as overtime.

Safety, Health And Welfare

- b) (i) Where employees take any meals in licensed premises there shall be provided and maintained suitable and sufficient facilities for the taking of those meals.
(ii) In all licensed premises there shall be provided and maintained for the use of the employees suitable and sufficient accommodation for clothing not worn during working hours.
- c) For every three (3) waiters employed by an employer, in a hotel, a trainee waiter shall be employed by him.
- d) Every worker shall be supplied by his employer with at least one hot meal on every working day in addition to the appropriate wage payable to him. Provided that if the worker is employed in any establishment which does not serve meals, his employer shall pay him in lieu thereof, the cash value of the meal not supplied. The cash value of any meal not supplied shall be deemed to be the amount fixed as such by or under the terms of the worker's employment, or if it is not fixed, shall be determined by the Chief Labour, Occupational Safety & Health Officer.
- e) Where any worker is required to wear a uniform, such uniform shall be supplied and kept laundered, free of charge by the employer.
- f) Every employer of workers shall provide and maintain, so as to be readily accessible, a first-aid box or cupboard containing the items mentioned in the schedule of the Factories (First Aid) Regulations.

2) By the Shops (Consolidation) Act, Chapter 91:04:

- a) Seating accommodation behind the counter shall be provided for the sole use of shop assistants, or, where no counter exists in such other position as may be suitable. Seats shall be in the proportion of not less than one seat to every three (3) shop assistants employed in each room. A notice in the form set out below shall be posted up in a conspicuous position to advise shop assistants that seats are provided.
- b) The occupier of a shop shall grant to every shop assistant, a holiday of a continuous period of twenty four (24) hours on one day in every week and, in addition, shall grant to such shop assistant a half holiday of a continuous period of twelve (12) hours on any day in every week. Such holidays shall take into consideration the shop assistant's day of worship.
By agreement the holiday and half holiday can be taken as one continuous period of thirty six hours.
- c) A shop assistant is entitled to a meal break of one and one quarter ($1\frac{1}{4}$) of an hour after working continuously for four (4) hours and if required to work beyond the normal hours to a further break of fifteen (15) minutes of an hour after working continuously for four (4) hours and if required to work beyond the normal hours to a further break of fifteen (15) minutes.

Section 7

Safety, Health And Welfare

FORM OF NOTICE

“Notice is hereby given that seats are provided in this shop for the sole use of shop assistants and that such assistants are expected to make reasonable use of them.”

The following categories of workers, who are employed on a weekly, fortnightly or monthly basis are entitled to an off day in every week, that is to say a continuous period of twenty four (24) hours during which he/she is not required by his employer to be on duty.

Categories of Workers

- i) House-hold Services Workers (Domestics).
- ii) Security Guards.
- iii) Mechanical Transport Employees.
- iv) Petrol Filling Stations Employees.

REGISTRATION OF INDUSTRIAL ESTABLISHMENTS

The OSH Act stipulates that every industrial establishment (every business) must be registered with the Ministry of Labour, Human Services and Social Security Occupational, Safety and Health Division.

Industrial Establishment means a factory, shop, office or workplace and any building or other structure or premises appertaining thereto, but does not include premises occupied for residential purposes only.

INDUSTRIAL ACCIDENTS

The Labour Occupational Safety and Health Department must be notified of all industrial accidents. Where the accident results in death, the Ministry must be notified immediately, for other accidents the notification must be within four (4) days.

The stipulated format for reporting accidents is shown in Appendix B.

WORKPLACE COMMITTEE

Any workplace with twenty (20) or more employees regularly employed is required to have a joint workplace safety and health committee.

Safety, Health And Welfare

If no committee is required as provided above but where the number of workers normally exceed five (5), the employer shall cause the workers to select at least one safety and health representative from among themselves who do not exercise managerial functions.

The Committee shall consist of at least four (4) persons where fewer than fifty (50) persons are employed. Where more than fifty (50) persons are employed at least six (6) or such greater number of persons shall form the committee.

At least half the members shall be workers who do not exercise managerial functions.

Section 8

Workmen's Compensation

Every employee may recover damages in respect of personal injury, or the wife, husband, parent or child may recover damages in respect to death of an employee which resulted from personal injury.

The recovery of damages in respect of personal injury or in respect of death resulting from personal injury is provided for by the *Accidental Death and Workmen's Injuries (Compensation) Act*, Chapter 99:05 as amended.

It is, therefore, obligatory for every employer to pay due care to Occupational Safety and Health and to provide compensation for personal injuries or for death resulting from personal injuries which may result as a consequence of an accident occurring in the course of employment.

In assessing damages in respect of personal injury, or death resulting from personal injury, no account shall be taken of any of the following monies paid or payable as a result of injury or death:

- a) Payments under any contract of insurance,
- b) Benefits under the National Insurance and Social Security Act,
- c) Payments by Friendly Society or similar body or trade union,
- d) Payments by way of pension or gratuity.

Termination Of Employment And Severance Pay

- 1) Termination of the employment contract and the payment of severance or redundancy allowance are provided for by the Termination of Employment and Severance Pay Act 1997. The Act stipulates that a contract of employment for an unspecified period of time may at anytime be terminated:
 - a) By mutual consent of the parties;
 - b) On the grounds of redundancy;
 - c) By either party for good or sufficient cause;
 - d) By either the employer or the employee giving the other party a minimum of two (2) weeks' notice of termination where the employee has been employed for less than one (1) year or one (1) month's notice where the employee has been employed for one (1) year or more, or payment in lieu thereof.

The following reasons do not constitute good or sufficient cause for dismissal or imposition of disciplinary action:

- a) An employee's race, sex, religion, colour, ethnic origin, national extraction, social origin, political opinion, family responsibility, or marital status;
- b) An employee's age, subject to any law or collective bargaining provisions regarding retirement;
- c) A female employee's pregnancy or a reason connected with her pregnancy;
- d) An employee's absence from work because of sickness or injury certified by a registered medical practitioner;
- e) An employee's absence from work due to compulsory military service or other civic obligation in accordance with any law;
- f) An employee's participation in industrial action in conformity with the provisions of any law or collective labour agreement;
- g) An employee's refusal to do any work normally done by an employee who is engaged in industrial action as described in subsection (1) (f);
- h) The filing by an employee of a complaint or the participation in proceedings against an employer involving alleged violations of any rule or law.

Section 9

Termination Of Employment And Severance Pay

An employer may make an employee redundant when there is need to reduce the workforce as a result of:

- a) The modernization, automation or mechanization by the employer of all or part of the business;
- b) The discontinuance by the employer to carry on all or part of the business;
- c) The sale or other disposition by the employer of all or part of the business;
- d) The reorganization of the business by the employer to improve efficiency;
- e) The impossibility or impracticability of the employer to carry on the business at its usual rate or level or at all due to:
 - (i) a shortage of materials;
 - (ii) a mechanical breakdown;
 - (iii) a *force majeure*; or (unforeseen circumstances)
 - (iv) an act of God.
- f) A reduced operation in the employer business made necessary by economic conditions, including a lack of or change in markets, contraction in the volume of work or sales, reduced demand or surplus inventory.

Prior to terminating an employee for reason of redundancy the employer must inform and consult the union or, if there is none, the employee and the Chief Labour, Occupational Safety and Health Officer, on possible measures that could be taken to avert or mitigate the effect of such redundancy.

SEVERANCE, REDUNDANCY AND RETIREMENT ALLOWANCES

The Termination of Employment and Severance Pay Act 1997 stipulates, that on termination of employment, an employee who has completed one (1) year or more of continuous employment with an employer shall be entitled to be paid by such employer severance or redundancy allowance as follows:

1-5 years' service	-	one (1) week's wages for each completed year of service
6-10 years' service	-	two (2) weeks' wages for each such completed year of service

Termination Of Employment And Severance Pay

11 years and over service - three (3) weeks' wages for each completed year of service up to a maximum of fifty two (52) weeks

However, these are the minimum that must be paid and are without prejudice to any superior benefits agreed to between the employer and employee.