Islamic Republic of Mauritania

Honor-Fraternity-Justice

Law No. 2004-017 on the labor code

The National Assembly and the Senate adopted;

The President of the Republic promulgates the law whose content follows:

ANALYTICAL TABLE

PRELIMINARY PROVISIONS
APPLICATION OF THE LABOR CODE

Article 1: Material application

The provisions of this code apply to individual and collective relations between employers and workers linked by a employment contract.

Relations between workers and employers in the merchant marine and maritime fisheries are also governed by the this code subject to the specific provisions of the code of merchant marine and maritime fisheries as well as regulatory texts taken for the application of the latter.

Civil servants appointed to a permanent position of a executive of a public administration as well as contractual agents of the State and public establishments of an administrative nature are not not subject to this code.

The provisions of this code do not preclude the application of more favorable provisions which may be granted to workers through collective agreements, individual contracts or uses.

Article 2: Territorial Application

This code is applicable to any employment contract intended to be executed in the Islamic Republic of Mauritania, regardless of are the places of its conclusion and the residence of the parties.

Article 3: Application over time

1°) The provisions of this code are applicable from
of the date scheduled for its entry into force and repeal all
contrary provisions of previous codes and laws.

2°) However, this repeal will not take effect, with regard to
concerns the institutions in place and the procedures in force, that
as new institutions and procedures are put in place.

3°) Until their modification or repeal, the regulations made in
application and for the execution of previous codes and laws remain in force
as long as they are not contrary to the
provisions of this code under the sanctions provided for in the corresponding
regulations.

4°) The provisions of this code are, automatically, applied
cables to current individual contracts.

They cannot constitute a cause of rupture of these
contracts, nor undermine provisions more favorable for workers than
collective agreements or individual contracts in
courses may contain.

Workers will continue to benefit from the benefits that
have been previously granted to them when they are greater than
those recognized by this code.

5°) The provisions of this code are immediately
applicable to current collective agreements. Those concluded
previously remain in force in all their clauses not contrary to this code.

Under penalty of nullity, any clause of collective agreements
contrary to the provisions of this code must be modified to be
compliance with it within six months.

PROFESSIONAL RELATIONSHIPS

EMPLOYMENT CONTRACT

CHAPTER I: GENERAL PROVISIONS

Article 4: Definition

The employment contract is an agreement by which the worker undertakes to carry out his professional activity, in exchange for remuneration, in the service of an employer under the direction and authority of the latter.

Any person is considered a worker, regardless of be their sex, nationality and legal status which is in a legal subordination link towards an employer, natural or legal person, under public law or private law, whatever the legal status thereof.

Article 5: Principle of freedom of work. Prohibition of forced labor

The worker commits freely. Forced or forced labor is prohibited compulsory by which work or a service is required of a person under the threat of any penalty and for which this person has not offered himself of his own free will.

Any employment relationship is also prohibited, even if it does not result from an employment contract and in which a person would provide work or service for which she did not volunteer of his own free will.

Any violation of these provisions is punishable by criminal sanctions provided for by law 2003-025 of 07/17/2003 on the suppression of human trafficking.

Article 6: Individual contract. Team contract ban

The employment contract is always individual.

A team contract by which an employer hires several people at the same time, either directly or indirectly, is prohibited.
for collective and fixed remuneration.

Article 7: Form and proof

The employment contract is formed and proven freely, under subject to specific provisions of this code as to the form,
to the evidence and content. The parties must respect, in particular,
the principle of non-discrimination established by article 395, paragraph 2.

The written contract is exempt from all stamp and registration duties.

CHAPTER II: COMMITMENT TO THE TEST

Article 8: Definition

The conclusion of a definitive employment contract may be subject to a trial commitment by which the parties agree to assess;

- the employer, the quality of the worker's services and his performance;

- the worker, the working and living conditions, remuneration, health and safety as well as the social climate of the company.

Article 9: Form

The trial commitment must, under penalty of nullity, be noted in writing, either separately or in a clause of the contract intended to become final.

Article 10: Duration of the trial

The trial employment contract cannot be concluded for a period greater than the time necessary to put the hired worker to the test, taking into account the technique and customs of the profession. The duration of the trial must be expressly stipulated in writing.

The trial commitment cannot, including renewal, exceed:

- a duration of six months for any worker; - a

period of twelve months for the worker who has retained his habitual residence outside the territory of the Islamic Republic of Mauritania;

- a period of twelve months for the worker hired as a manager as defined by collective agreements or regulations;

Departure and en route wait times are not included in the maximum trial duration.

The durations of the trial engagement provided for in this article only apply in the absence of more favorable regulatory provisions or collective agreement clauses.

Article 11: Sanction

Any contract which does not meet the conditions provided for in Articles 9 and 10 must be considered as a definitive employment contract of fixed or indefinite duration depending on what has been expressly agreed between the parties, in the event that the test proves satisfactory.

Article 12: Extension of services

The party wishing to extend the trial must inform the other before the expiration of the period concerned, failing which, the definitive contract of fixed or indefinite duration depending on what has been expressly agreed between the parties, comes into effect on case where the test proves satisfactory.

The extension of services beyond the duration by the trial is equivalent to the conclusion of a definitive contract of fixed or indefinite duration depending on what has been expressly agreed between the parties in the event that the trial proves satisfactory .

Article 13: Termination of the commitment

Unless expressly stated otherwise, the trial engagement may be terminated unilaterally, at any time by either party, without notice and without compensation subject to abuse of rights.

Proof of abuse of rights is the responsibility of the party who claims to be a victim.

Article 14: Travel expenses

The travel rights of workers hired on probation outside the place of their usual residence and their family are governed by articles 207 et seq.

CHAPTER III: FIRM-TERM CONTRACT

Article 15: Definition

A fixed-term employment contract is considered to be:

1°) one whose duration is precisely defined by the parties using a unit of time;

2°) one which is accompanied by a term consisting of a calendar date;

3°) one whose term is subordinate to a future event and certain whose date is not exactly known;

4°) that concluded for the execution of a specific work or the realization of an enterprise whose duration cannot be evaluated with precision.

Article 16: Succession of fixed-term contracts

No employer may conclude more than two fixed-term contracts with the same worker successively and without interruption, nor renew a fixed-term contract more than once.

The continuation of services upon the expiration of a fixed-term contract, apart from the cases provided for in the preceding paragraph, automatically constitutes the execution of an employment contract of indefinite duration.

However, the provisions of the preceding paragraphs of this article do not apply:

1°) to the worker hired by the hour or by the day for a short-term occupation not exceeding one day;

2°) to the seasonal worker hired for the duration of a camp-agricultural, commercial, industrial, tourist or artisanal loincloth;

3°) to the occasional dock worker hired for handling work to be carried out inside the port enclosure;

4°) to the worker hired as additional staff, to carry out carry out work arising from an increase in company activity;

5°) to the worker hired to ensure the temporary replacement of a worker of the company whose contract is legally, conventionally suspended, in accordance with the provisions of coded;

6°) to the worker temporarily hired for the needs of a construction site, building and public works.

However, in the event of closure of the business following departure from the employer under the flag or for a compulsory period of military training, lawful strike or lockout, the worker whose contract is suspended cannot be replaced.

The Minister of Labor may, however, grant by order, a exemption from other professions, works or jobs of a seasonal or temporary nature.

The conditions of employment of workers mentioned above, are set by decree taken after advice of the national labor council of employment and social security

Article 17: Maximum duration

No contract can be concluded for a specific period exceeding two years, including renewal.

However, for foreign workers who do not have their usual residence in Mauritania, the duration cannot, except for exemption granted under conditions provided for by decree, exceed thirty month for the first stay and twenty months for subsequent stays.

Article 18: Duration greater than three months, installation of the worker outside his usual residence - Approval visa required

Any fixed-term employment contract concluded for a period exceeding three months or requiring the worker to relocate outside his or her usual residence must, after a medical examination of the worker, be established in writing and submitted for approval by the worker. the labor and social security inspector of the place of employment or the labor director if the worker has his habitual residence outside Mauritanian territory.

The latter affixes the approval visa after having, in particular:

1°) obtained the prior approval visa from the labor and social security inspector of the place of employment on the 10 agreed working conditions.

2°) verified the identity of the worker, his free consent and the conformity of the employment contract with the applicable labor provisions;

3°) verified that the worker is free from any commitment;

4)) verified that the duration of the contract is determined without ambiguity;

5°) given to the parties reading and, possibly, translation of the contract.

Article 19: Visa application. Procedure

The visa application is the responsibility of the employer.

If the labor and social security inspector at the place of employment, competent to grant the visa, has not made his decision known to the employer within fifteen days of the request made by him here, the visa is deemed granted. This period is thirty days in the event that the visa must be granted by the labor director for a worker having his habitual residence outside Mauritania territory.

Article 20: Refusal or omission of visa - Sanction

If the visa is refused, the contract is automatically void. In the absence of writing or if the omission of the visa is due to the employer's actions, the worker may have the contract declared null and void by the competent court and, if applicable, claim damages. -interests.

If one of the parties does not respect the obligations possibly prescribed on the occasion of the approval visa, the other party may request the nullity of the contract as in the case of omission of the visa and claim, if it where applicable, damages.

Under no circumstances may action for annulment be brought:

- after a period of six months following the date of conclusion of the contract or the start of its execution.

- after the expiration of the term of the contract or after its termination.

Article 21: Obtaining a visa - effects

When the fixed-term employment contract has been approved, it is transmitted, depending on the case, to the central or local body responsible for labor, which must affix, on each copy, the registration visa with date and number and keep a copy of the contract in the worker's file.

CHAPTER IV: CONTRACT OF INDETERMINED DURATION

Article 22: Definition

Any employment contract which does not meet the definition of a fixed-term contract is considered to be an indefinite-term contract.

Article 23: Installation of the worker outside his usual residence

The indefinite-term employment contract requiring the worker to relocate outside his or her usual residence is subject to the provisions of Articles 18 to 21.

CHAPTER V: EFFECTS OF THE EMPLOYMENT CONTRACT

Article 24: Principle

Subject to the specific provisions of this code, the employment contract produces all the effects of common contract law.

Article 25: Obligation of non-competition of worker

Unless otherwise stipulated in the contract, and subject to the regulation of multiple employment, the worker owes all his professional activity to the company which employs him.

However, it is possible for him, unless otherwise agreed, to carry out, outside of his working hours and subject to the regulations on multiple employment, any professional activity not likely to compete with the company or to harm the proper execution of the agreed services.

The non-competition clause after termination of the contract contract subscribed by the worker is only valid:

- if the termination of the contract is due to the resignation of the worker or upon his dismissal for gross misconduct.

- if the non-competition obligation does not exceed two years, nor a radius of one hundred and fifty kilometers around the place of employment;

- if the prohibited professional activity is likely to compete with that of the employer.

Article 26: Modification of the legal situation of the employer - Maintenance of individual contracts and the collective agreement business

If there is a change in the legal situation of the employer or a legal change in the form, ownership or of the operation of the company, in particular by inheritance, sale, merger, transformation of funds, formation of company or any other type modification, all employment contracts in progress on the day of the

modification subsists between the new employer and the staff of the company.

Their revision or termination can only take place within the forms and under the conditions provided for by this code, the regulations or collective agreements as if the modification of the situation legal action of the employer had not intervened.

The company or establishment collective agreement concluded with the previous employer binds the latter's successor until the expiration of the fixed duration provided for or termination.

Article 27: Modification of the legal situation of the employer – Effects between successive employers

Successive employers remain obliged, towards the staff transferred, of all the obligations which were the responsibility of the previous employer, without prejudice to a recursive action against this last by the successor employer.

Article 28: Transfer

When the worker is transferred from one establishment to another from the same company or from one company to another in the same group, he retains the benefit of seniority and acquired advantages before his transfer, subject to a revision always possible of these last if they are contractual.

Article 29: Revision of the Employment Contract

The revision of the employment contract consists of a modification substantial part of it. It can only take effect with the mutual consent of the parties.

The party who takes the initiative for the revision must make the proposal to the other in writing and give them a period of time equivalent to the notice period to give their response. The silence observed by this latter cannot be considered as a tacit acceptance of the new terms of the contract.

However, after the time limit set by the requester for the revision without a response or expressed by the recipient of the revision before the staff delegates if applicable, the party who proposed the revision may terminate the contract.

The labor courts are competent to assess whether the revision was proposed in the legitimate interests of the company or the worker.

CHAPTER VI: SUSPENSION OF THE EMPLOYMENT CONTRACT

SECTION I : GENERAL PROVISIONS

Article 30: Principle

Except in cases provided for by law, regulations and collective agreement and except in cases of force majeure making it temporarily impossible to execute the employment contract, it does not may be suspended as agreed by the parties.

Article 31: Remuneration or compensation for the period of suspension

1°) The suspension of the employment contract does not give rise to the right to remuneration or compensation unless otherwise provided by law, regulations, collective agreements and party agreements.

2°) Compensation and benefits of any kind and nature source from which the worker benefits during the period of suspension, cannot have the effect of allowing him to pull benefit of his state through unjust enrichment.

3°) In the cases provided for in articles 33 and 38, 1° and 2°, the employer is required to pay the worker, within the period of notice, a compensation ensuring the latter the amount of his remuneration, deducted, possibly, from the compensation he could receive in very reason for the reason for his absence.

If the worker is subject to a contract that does not set the duration of the notice, reference is made to the notice set by the collective agreement or by decree for the professional branch in question.

In the cases provided for in article 38, 1° and 2°, a decree taken after opinion of the national council for labor, employment and social security

the, determines the conditions under which companies and the State participate in the compensation of workers whose contract is suspended.

Article 32: Accounting for the suspension period for seniority and paid leave

The periods of suspension determined by this chapter are considered as effective service time for the determination;

- the seniority of the worker with the exception of those provided for by articles 33 and 38, 1°, 6°, 7°, and 8°;

- the right to paid leave with the exception of articles 34 and 38, 1°, 6°, 7°, 8° and 9°.

SECTION II : SUSPENSION DUE TO THE EMPLOYER

Article 33: Military obligation of the employer

The employment contract is suspended in the event of temporary closure of the company following the employer's departure under the flag for a compulsory period of military training.

Article 34: Lockout

The employment contract is also suspended during the duration of the lockout lawfully decided by the employer.

Article 35: Temporary closure of business

The employment contract is suspended in the event of temporary closure of the company or establishment, of a ban or temporary disqualification of the employer from the right to exercise his professional activity pronounced by an administrative or judicial decision.

During this period, the employer must continue to pay its staff, salaries, allowances and benefits of all kinds to which he was entitled without this duration being able to exceed three months.

If the closure of the company or the ban or forfeiture of the right to exercise a professional activity exceeds three months, workers have the right to consider that their employment contract is terminated due to the employer and must, in this case, notify this one their decision.

If the closure of the company or the ban or forfeiture of the right to exercise a professional activity is definitive, the employer is entitled to terminate the employment contracts of its staff, in this case he must notify his decision to the personnel concerned with the payment of all duties. It remains understood that this staff retains hiring priority.

Article 36: Economic unemployment and technical unemployment - Decision

When due to serious economic difficulties or unforeseen events arising from force majeure or major technical constraints, the operation of the company is rendered economically or materially impossible or particularly difficult, the employer may decide to suspend all or part of its activity.

The decision indicates the duration, determined or not, of the implementation economic or technical unemployment as well as, possibly, wage compensation offered to workers.

Pronounced economic or technical unemployment for a fixed period can be renewed.

The Labor Inspector is informed, without delay, of any decision of economic or technical unemployment and its renewal. is lying.

Article 37: Economic unemployment and technical unemployment – Legal regime

Under no circumstances may economic or technical unemployment be imposed on employees, on one or more occasions, for more than ninety calendar days during the same twelve-month period.

At the end of this period, the worker has the option of considering himself dismissed without prejudice to his right, where applicable, to notice and dismissal compensation. In this case, the rules of the economic dismissal procedure or common law do not apply.

Working hours lost due to economic or technical unemployment may give rise to recovery under the conditions provided for by the regulations for the recovery of working hours lost following a collective interruption of work.

SECTION III: SUSPENSION BY THE WORKER

Article 38: Case of suspension

The employment contract is suspended:

1°) During the duration of the worker's military service and during the obligatory periods of military training to which he is required;

2°) During a period of absence limited to six (6) months, due to accident or non-occupational illness duly noted by an approved doctor, this period is extended until the worker is replaced;

3°) During the entire period of temporary incapacity for work resulting from a work accident or occupational disease;

4°) during the rest of the female employee benefiting from provisions of article 39;

5°) During the duration of the strike if it has been called in compliance with the collective labor regulations procedure;

6°) During the duration of the worker's unpaid absences, authorized or excused by the employer under regulations or individual agreements;

7°) During the duration of the disciplinary layoff of the worker employee or staff representative decided by the employer.

8°) During the preventive detention of the worker.

9°) During the duration of increased leave, possibly waiting and travel times defined in articles 183 and 214.

10°) During the period of pilgrimage to the holy places of Islam. However, the worker will benefit once in his professional life and within the limit of thirty (30) consecutive days from all effects produced by his contract.

11°) During the period of idduity of the employed woman in the limit of one hundred and thirty consecutive days without prejudice to prescriptions of Islamic Sharia law in this matter.

Article 39: Maternity Leave

On the occasion of her childbirth and without this interruption of service being considered as a cause of termination of the contract, any woman has the right to suspend her work for fourteen (14) consecutive weeks, including eight (8) weeks after delivery. The duration of eight (8) weeks following the delivery is irreducible whatever the date of delivery.

This suspension may be extended by three (3) weeks in case of illness duly noted and resulting from pregnancy or layers.

This suspension may also be preceded by a period of non-compensable rest, the duration of which is fixed by the medical certificate stating the absolute necessity of rest.

The preceding provisions do not preclude the application of the provisions of articles 31-3° and 38 when, during the interruption referred to above, a duly recorded illness occurs

or not to pregnancy or childbirth.

Conversely, during the entire period of maternity leave ty, the employer cannot give leave to the female employee.

Article 40: Maternity – Breakup

Any pregnant woman whose condition has been medically noted- ment or whose pregnancy is apparent, may terminate her employment contract. work without notice and without having, as a result, to pay compensation breakup.

Conversely, during the entire period of maternity leave ty, the employer cannot give leave to the female employee.

Article 41: Subsistence and care of employed women in maternity

During the period of suspension of the employment contract for maternity leave as defined by article 38, the woman has the right to special assistance treatment in order to ensure both their subsistence and the care necessary for their condition, under the conditions provided for by social security legislation on family benefits.

Article 42: Breastfeeding of the child

A mother breastfeeding her child may, for a period of fifteen months following the birth, stop working without notice and without having, therefore, to pay termination compensation.

She can also, during the same period, benefit from a right breastfeeding rest. The duration of this rest cannot exceed one hour per working day.

The duration of rest for breastfeeding is counted in working hours and remunerated as such.

Article 43: Character of public order

Any collective agreement contrary to the provisions of articles 38 to 41 is automatically void.

CHAPTER VII: TERMINATION OF THE EMPLOYMENT CONTRACT

SECTION I : TERMINATION OF THE CONTRACT FOR A DETERMINED DURATION

Article 44: Causes of ruptures

The fixed-term employment contract cannot end before its intended term that:

- following a case of force majeure making it definitively impossible the continuation of the execution of the contract;

- by mutual consent of the parties;

- following a serious fault of one of the parties left to the assessment of the competent court;

- following the death of the worker.

Article 45: Notification of termination to the administrative authority

In the event of premature termination of a fixed-term contract subject to approval, the employer is required to notify,
within fifteen days, the authority which approved the said contract.

SECTION II : TERMINATION OF THE CONTRACT FOR AN INDETERMINED DURATION

SUBSECTION I : COMMON LAW PROCEDURE

Article 46: Principles

The employment contract of indefinite duration can always be terminated by the will of one of the parties.

Before any decision to dismiss, the employer must inform the worker in writing indicating the alleged reason and inviting him to provide explanations in writing within forty-eight hours res.

Any termination is subject to prior notice, notified in writing, by the party who initiates the termination. The reason for termination must be mentioned in this writing.

The notice must not be subject to any conditions suspensive or resolutive. It begins to run from the date of the delivery of the notification.

However, termination of the contract may occur without notice. in the event of gross negligence left to the discretion of the competent court.

Article 47: Legitimate reason for termination

The permanent employment contract can be terminated for one of the causes provided for in article 44 for any other real reason and serious.

Article 48: Terms and duration of notice

In the absence of collective agreements, an order from the minister responsible for labor, taken after advice of the national labor council, employment and social security sets the terms and duration of the prior notice, taking into account, in particular, the duration of the contract and the professional categories.

Article 49: Completion of notice

During the notice period, the employer and the worker are required to respect all reciprocal obligations incumbent upon them.

With a view to seeking another job, the worker benefits, during the period of notice, from one day of freedom per week. taken, at his choice, overall or hour by hour, paid at full salary D.

Free hours are taken on the initiative of the worker who must notify their employer, at the latest, the day before their absence.

The party with respect to whom these obligations are not respected is exempt from observing the remaining notice period, without prejudice to any damages that it may claim for compensation for the damage thus caused to it.

Article 50: Compensation for notice period

Any termination of contract of indefinite duration, without notice or without the notice period having been fully observed, subject to the provisions of article 49, paragraph 3, entails an obligation for the responsible party to pay the other party a compensation known as “compensatory notice compensation”, the amount of which corresponds to the remuneration and benefits of all kinds which the worker would have benefited from during the notice period which has not actually been respected.

If the termination of the employment contract occurs during the worker's leave, the compensation in lieu of notice, calculated in accordance with the provisions of the preceding paragraph, is doubled.

However, the dismissed worker who finds employment during the notice period may immediately leave the employer without being liable for compensation, subject only to notifying him of his definitive departure.

SUBSECTION II: SPECIAL CASES

Article 51: Retirement age

The indefinite employment contract ends when the employee reaches the retirement age provided for by the laws, regulations or collective agreements in force.

However, the party who intends to rely on this legitimate cause of termination is required to inform the other party within the time limit provided for in Article 46.

The worker who is retired or who decides to retire is entitled to retirement compensation under the conditions set by laws, regulations or collective agreements in force.

Article 52: Resignation

The employee may freely resign provided that he respects the notice period provided for in article 45 and does not commit abuse of rights.

Abandonment of post, whatever the duration, cannot be considered an act of resignation, but can be constitutive of misconduct justifying dismissal if not authorized or excused by the employer.

Article 53: Death of the employer

The death of the employer does not cause the termination of the employment contract. work only if it results in the cessation of the business.

In this case, the workers are entitled, in addition to the salaries and salary accessories acquired until the effective date of the termination, to severance pay and leave compensation. paid.

Article 54: Death of the worker

In the event of the worker's death, his heirs are entitled, in addition to salaries and salary accessories acquired until the day of death, compensation in lieu of notice, severance pay, and compensation for paid leave without prejudice to rights creditors.

SUBSECTION III: TERMINATION FOR CAUSE PROCEDURE ECONOMIC

Article 55: Economic motive

Any individual or collective dismissal for economic reasons leading to one or more job losses, such as

in particular, the reduction of activity or an internal reorganization of the company or establishment, is subject to the rules of this subsection.

Article 56: Establishment of the order of dismissals

The employer establishes the order of dismissals of workers whose contracts he is considering terminating, taking into account the professional qualifications, seniority in the company and family responsibilities of the workers.

Workers with the least professional aptitude for the jobs maintained are dismissed first and, in the event of equality of professional aptitude, the least senior workers, the seniority being increased by one year for the married employee and by one year for each dependent child under the family benefits legislation.

Article 57: Information and consultation of staff representatives

In order to collect their suggestions, the employer must inform, in writing, the staff representatives, communicating to them the reason for the envisaged dismissal(s), the categories of workers likely to be dismissed and the order of dismissal of those -this.

The staff representatives have a period of fifteen days from this notification to express their opinion on the subsidiary measures to the dismissals and on the order of these. This notice does not bind the employer.

The employer is required to notify the local labor inspectorate of his proposed dismissal for economic reasons as well as a copy of the letter addressed to the staff representatives and their opinion.

The labor inspector must, using his good offices, seek, with the staff representatives and the employer, all alternative solutions to dismissal such as, in particular, reduction of working hours, partial unemployment, unemployment by rotation.
In the case of revision of an employment contract, the provisions of article 29 apply.

Failure to comply with these formalities will result in the dismissal being void. However, the non-receipt of the report from the labor inspector in the time limit provided for in paragraph 5 is not a cause of nullity.

Article 58: Notification of notice

After the fifteen day period provided for in the preceding article, the employer may proceed with the planned dismissals while respecting the provisions of articles 46 et seq.

Article 59: Hiring priority

The worker dismissed for economic reasons retains, for one year, priority in hiring in the same employment category.

After this period, it continues to benefit from the same priority for a second year, but his hiring may be subject to a professional trial or a probationary internship, the duration of which duration cannot exceed that of the trial period provided for by the collective agreement.

The worker benefiting from hiring priority is required to communicate to his employer any change in his address occurring after leaving the company. In the event of a vacancy, the employer notifies the interested party by registered letter with acknowledgment of receipt sent to the last address communicated by the worker.

The worker must report within a maximum of ten days following the date of receipt of the letter.

Decrees taken after advice from the National Labor Council, employment and social security may set the terms of application of the provisions of this subsection.

SECTION III: COMMON PROVISIONS

Article 60: Unfair termination

Any abusive breach of contract may give rise to damages. The court establishes the abuse through an investigation, if necessary, into the causes and circumstances of the termination of the contract.

Dismissals carried out without legitimate reasons, as well as dismissals motivated in particular by the political or religious opinions of the worker, his membership or non-membership of a union, his sex, his age, his race, his national ancestry, his color, his religion, are abusive.

In the event of a dispute, proof of the existence of a legitimate reason for dismissal rests with the employer. The judgment must expressly mention the reason alleged by the party who broke the contract.

Article 61: Damages

The amount of damages is fixed taking into account all the elements which can justify the existence and determine the extent of the damage caused and, in particular:

1°) when the responsibility lies with the worker, the prejudice this suffered by the employer due to non-performance of the contract.

2°) when the responsibility lies with the employer, the uses, the nature of the services engaged, the seniority of the services, the age of the worker and the rights acquired in any capacity whatsoever.

These damages are not to be confused with notice compensation, nor with severance or retirement compensation that may be provided for by law, regulatory texts, the contract or the collective agreement.

Article 62: Cessation of business or payments

The definitive cessation of a business, except in cases of force majeure, does not exempt the employer from respecting the rules relating to the termination of the employment contract.

The cessation of payments by a company, even noted by judgment opening a collective procedure for the settlement of the passive, is not considered a case of force majeure.

Article 63: Poaching

When a worker wrongfully terminates an employment contract and hires his services again, the new employer is jointly and severally liable for the damage caused to the previous employer when it is demonstrated that he intervened in the poaching.

The same applies when the new employer hires a worker whom he already knows to bind by an employment contract or when he has continued to employ a worker after learning that this worker was still linked to another employer by an employment contract.

In the latter case, the new employer is not responsible if, at the time he is informed, the employment contract improperly broken by the worker has expired or:

- if it is a fixed-term contract, the end has arrived;

- if it is a contract of indefinite duration, the notice period is expired or if a period of fifteen days has elapsed since the termination of said CONTRACT.

Article 64: Work certificate

When the contract expires or is terminated, the employer must issue to the worker, under penalty of damages, a certificate indicating exclusively the date of its entry, that of its exit, the nature and dates of jobs successively held, the category of the collective agreement to which the worker falls.

On pain of damages, the employer cannot provide biased or erroneous information on the worker's account.

This certificate is exempt from all stamp and registration duties, even if it contains other information than those provided for in this article.

COLLECTIVE AGREEMENTS

CHAPTER I: GENERAL PROVISIONS

Article 65: Definition - Purpose

The collective agreement is an agreement relating to the conditions work, employment and social security concluded between:

- on the one hand, the representatives of one or more unions or professional worker groups;

- and on the other hand, one or more unions or professional groups of employers or any other organization of employers or one or more taken individually.

The collective agreement may contain provisions more favorable to workers than those of the laws and regulations in force.

It cannot deviate from the public order provisions defined by these laws and regulations.

Individual employment contracts may contain more favorable clauses than those in collective agreements.

Article 66: Common law of collective agreement

The provisions relating to the simple collective agreement apply to all categories of collective agreements subject to the specific provisions of each of them.

A decree taken by the Council of Ministers, after consultation with the National Council for Labor, Employment and Social Security, may determine the terms of application of the provisions of this title.

Article 67: Stamp and registration duty

All acts established for the execution of this title are exempt from stamp duty and registration.

Article 68: Collective agreements in services, companies and public establishments.

1°) When the staff of public services, companies and establishments are not subject to a particular legislative or regulatory status, collective agreements may be concluded in accordance with the provisions of Chapter II of this Title;

The list of establishments employing staff subject to status in these companies is established by decree.

2°) when a collective agreement is the subject of an order extending it in application of the provisions of Chapter III of this Title, it is, in the absence of contrary provisions, applicable to the public law legal entities concerned. by the first paragraph of this article which, due to their nature and their activity, are placed within its scope of application.

Article 69: Order or decree in lieu of collective agreement

1°) an order of the Minister of Labor taken after advice of the National Council for Labor, Employment and Social Security, failing or pending the establishment of a collective agreement under the conditions defined in this title, may regulate the conditions of work, employment and social security for a given profession, drawing inspiration from collective agreements that may exist or internationally accepted standards.

This order may be for a specific profession or, where applicable, for a group of professions in which the working and employment conditions are comparable.

2°) Failing or pending the establishment of a collective agreement, decrees taken after advice of the National Labor Council of employment and social security regulate the conditions of work, employment and social security of professions falling under the establishments or public services.

CHAPTER II: SIMPLE COLLECTIVE AGREEMENT

Article 70: Conclusion

Unions and professional groups contract by
through their representatives designated under:

- either statutory provisions of these organizations;

- either a special deliberation of these organizations;

- or special written mandates which are given individually -
ment to the members of these organizations.

In the absence of such prior designation, the collective agreement must be ratified by a special deliberation of the organizations concerned.

The unions and professional groups themselves determine their mode of deliberation for the designation of their representatives and the ratification of the collective agreement.

Article 71: Form

The collective agreement must be written in Arabic and French.

It is drawn up on plain paper and signed by the representatives mandated by the contracting parties.

Article 72: Deposit

The collective agreement must be filed with the secretariat of the labor court competent for the place where it took place.

The deposit is made at joint expense to the care of the most diligent party in triplicate.

The secretary of the labor court draws up a report of the filing and issues a receipt. It mentions the date of filing on the three copies received and sends two of them to the Labor Inspector within two days following filing.

Article 73: Territorial application

The contracting parties freely determine the scope territorial application of collective agreements which can be local, regional or national.

Article 74: Application over time

Unless otherwise stipulated by the parties, the collective agreement is applicable from the day following the date of its filing with the secretariat of the labor court as specified on the receipt provided for in section 72.

Article 75: Duration

The collective agreement is applicable for a period determinate or indeterminate.

When the collective agreement is for a fixed term, it cannot be longer than five years.

In the absence of any stipulation to the contrary, the fixed-term agreement which expires continues to produce its effects as an agreement of indefinite duration.

Article 76: Content

The contracting parties freely determine the content of the collective agreement while respecting the order provisions public of this code, in particular the principle of non-discrimination posed by article 395, paragraph 2.

However, they must provide in what form and in what deadline the agreement may be denounced or revised.

Article 77: Contractual effect

The organizations and persons who have personally signed it or who are members are subject to the obligations arising from the convention, in particular with regard to denunciation, renewal, revision, participation in the commissions provided for by it. of the signatory organizations.

The convention also binds the organizations which adhere to it, as well as all those who become members of these organizations.

The contracting parties and members, as well as their members, undertake to faithfully execute these obligations and not to compromise the application of the collective agreement to the companies subject to it. They are only guarantors of this execution to the extent determined by the agreement.

Article 78: Normative effect - Subjection

The clauses of the collective agreement setting out the rights and obligations gations of workers and employers are required in all companies when the employer has personally signed the said agreement or is part of or becomes a member of a signatory or member organization thereof.

When a company is likely to be subject to several collective agreements due to the plurality of its activities, only the collective agreement corresponding to its main activity is applicable to it.

Article 79: Membership

Employers and organizations wishing to adhere to a collective agreement must notify, in writing, their adhesion in triplicate to the secretariat of the labor court which received the agreement. In the event that the act of accession is deposited with the secretariat, the secretary gives a receipt.

He shall give notice of this notification to the contracting parties by registered letter with acknowledgment of receipt.

Unless otherwise stipulated in the agreement, the adhering party has the same rights as the contracting parties.

Article 80: Modification

Amendments made to the initial agreement must be established, filed, notified and published in the same forms and conditions as those provided for in Articles 71 and 72.

Article 81: Resignation

In the event of resignation of a group or a member of a group which is a contracting party to an agreement, notification must be made in writing, in triplicate, to the secretariat of the labor court where the agreement was filed. . In the event that the resignation document is submitted to the secretariat, the secretary provides a receipt.

The resignation of an employer from the signatory or member organization does not exempt him from the application of the collective agreement. However, amendments subsequent to his resignation are not applicable to him.

Article 82: Denunciation

The denunciation of the collective agreement is the subject of a written document, in three copies addressed by its author(s) to the secretariat of the court where the filing was made.

In the event that the act of denunciation is filed with the secretariat, the secretary gives a receipt.

The denunciation must be preceded, unless expressly stated otherwise, by three months' notice.

The collective agreement denounced continues to produce its effects until the entry into force of the agreement which replaces it or, failing that, for one year from the effective date of denunciation.

Article 83: Transmission to the labor inspector

The secretary of the labor court must send to the Labor Inspector two of the copies on which he mentions the date of arrival or filing of all notifications of modifications, memberships, resignations or denunciations mentioned, herein -above.

Article 84: Advertising at the secretariat of the labor court

It is given free of charge, communication of the collective agreement to any interested person.

Certified copies of collective agreements
as well as memberships, resignations, or denunciations, are issued
by the secretary of the labor court on plain paper, at the expense of
applicant. They cannot be refused.

Verbal translations of these acts may be requested.
submitted to the Labor Inspectorate by any interested person.

Article 85: Advertising in the company

In each establishment subject to the application of a
collective agreement or an order in lieu thereof, the head of the establishment
must keep a copy of it available to staff.

Article 86: Violation of the collective agreement

1°) Employers and organizations bound by an agreement
collective may, in their own name, bring an action for damages:

- Against employers and organizations, signatories and members of
the agreement who violate their contractual commitments;

- To the own members of the contracting organizations or
members who do not apply the clauses of the said agreement
relating to labor relations between employers and workers.

2°) Any employer or worker subject to a collective agreement may
bring an action for damages against any
other person or organization bound by the agreement which violates
respect the commitments entered into;

3°) Any organization bound by a collective agreement may
exercise all actions arising from this agreement in favor
of its members, without having to justify a mandate from the person concerned, provided
that he or she has been informed and has not declared his or her opposition.

The interested party can always intervene in the proceedings initiated by
said organization.

4°) When an action arising from the violation of a collective agreement is brought either by an employer or a worker, or by an organization, any other organization whose members are subject to the said agreement may intervene the proceeding initiated due to the collective interest that the solution to the dispute may present for its members.

The action of the organizations referred to in this article is subject to their capacity to take legal action.

CHAPTER III: POSSIBLE COLLECTIVE AGREEMENT EXTENSION

Article 87: Negotiation initiative

At the request of one of the union organizations of employers or workers concerned, considered to be the most representative or on his own initiative, the Minister of Labor convenes the meeting of a joint commission with a view to concluding a Collective Agreement whose purpose is to regulate the working, employment or Social Security conditions of one or more branches of activity determined at the national, regional or local level.

Article 88: Composition of the mixed commission

An order from the Minister of Labor determines the composition of the joint commission which will include, in equal number, representatives of the trade union organizations most representative of workers and employers or, in the absence of the latter, of employers taken individually.

Article 89: Additional agreements

Additional agreements can be concluded for each of the main professional categories. They contain the specific working conditions for these categories and are discussed by representatives of the organizations most representative of the categories concerned.

Article 90: Assessment of representativeness

The representative nature of a union or a professional group is determined by the Minister of Labor who will bring together all the elements of assessment and will take the opinion of the interested services of the Labor administration.

The assessment of representativeness is made on the basis of the criteria laid down by article 265.

The Minister's decision may, if necessary, be appealed for abuse of power.

The file provided by the Minister of Labor must include all the assessment elements collected and the opinion of the Labor administration services.

The preceding provisions cannot be interpreted as authorizing the labor administration to take note membership registration registers and treasury books of the union or professional group.

Article 91: Disagreement of the joint commission

If a joint committee cannot agree on one or more provisions to be introduced into the agreement, the Labor Inspector must, at the request of one of the parties, intervene to facilitate the completion of this agreement.

Article 92: Mandatory clauses

The collective agreements covered by this chapter must include provisions concerning.

1°) the free exercise of trade union rights and freedom of opinion of workers;

2°) the minimum salaries corresponding to the various qualifications of the professional hierarchy of the branch of activity considered;

3°) the terms of execution and the rates of increase of overtime hours worked day or night during days working days, weekly rest and public holidays;

4°) the duration of the trial engagement and that of the notice period;

5°) staff representatives;

6°) the provisions concerning the procedure for revising and , modi-denouncing all or part of the collective agreement;

7°) the terms of application of the principle “for equal work, equal pay” for young workers;

8°) paid leave;

9°) travel allowances, and where applicable, distance allowances;

10°) the class of passage and the weight of baggage in the event of travel by the worker and his family, whether traveling from his usual residence to the place of employment, and vice versa or whether it is an occasional move from the place of employment;

11°) the conditions of hiring and dismissal of workers without the provisions provided being able to affect the free choice of union by the worker;

12°) conventional conciliation and arbitration procedures, according to which collective labor disputes likely to arise between employers and workers bound by the agreement will or can be resolved.

Article 93: Optional clauses

They may also contain, without this enumeration being exhaustive, provisions concerning:

1°) seniority, attendance and performance bonuses;

2°) compensation for professional and similar expenses, transport compensation;

3°) basket bonuses for workers who have to take their meals at the workplace.

4°) the general conditions of remuneration based on performance or commission each time such a method of remuneration is recognized as possible in full or in part;

5°) compensation for difficult, dangerous, unhealthy, dirty work;

6°) where applicable, the organization and operation of apprenticeship and professional training in the context of the branch of activity considered;

7°) the special working conditions of women and young people in certain companies within the scope of the convention;

8°) where applicable, the terms of constitution of the security-is lying ;

9°) reduced-time employment of certain categories of staff and their remuneration conditions;

10°) the organization, management and financing of services social and medico-social;

11°) special working conditions: shift work, work during weekly rest and public holidays.
A decree will determine the conditions under which it can be made mandatory the optional provisions recognized as useful.

Article 94: Adaptation of collective agreements concluded on a smaller territorial plan

In the event that a collective agreement concerning a specific branch of activity has been concluded at the national level or regional, collective agreements concluded at the regional level or local adapt this agreement or certain of its provisions to the special working conditions existing on the territorial level more reduced.

They may provide for new provisions and clauses more favorable to workers.

Article 95: extension of the collective agreement

At the request of one of the trade union organizations or one of the most representative professional groups or on the initiative of the Minister of Labor, the provisions of collective agreements meeting the conditions determined by this section, may be made obligatory for all employers and workers included in the professional and territorial scope of the convention, by joint order of the Minister of Labor and the Minister finances.

This extension of the effects and sanctions of the collective agreement will be done for the duration and under the conditions provided for by the said agreement.

However, the Minister of Labor must exclude from the extension after reasoned opinion of the National Council of Labor, Employment and Social Security, the conditions which would be in contradiction with the extracts of the convention, without modifying it. economy, clauses which do not respond to the situation of the branch of activity in the field of application considered.

Article 96: End of the extension

The ministerial decree provided for in the preceding article will cease to have effect when the collective agreement has ceased to be in force between the parties following its denunciation or its renewal.
is lying.

The Minister of Labor may, after reasoned opinion of the National Council for Labor, Employment and Social Security, report the ministerial decree provided for in the preceding article with a view to putting an end to the extension of the collective agreement, or certain of its provisions, when it appears that the agreement, or the provisions considered no longer respond to the situation of the branch of activity in the territorial scope considered.

Article 97: Extension and withdrawal procedure

Any extension or withdrawal order must be preceded by a consultation of professional organizations and all interested persons, carried out under the conditions specified in this article.

Any project to extend a collective agreement must be the subject of a notice published in the Official Journal of the Islamic Republic of Mauritania, to which the full text of the agreement will be annexed.

Before the expiration of a period of thirty days following the publication of the notice in the official journal, the unions, professional groups and all interested persons will send their observations on the clauses to the labor inspector. of the convention and their opinion on the advisability of extending all or part of its provisions.

The extension or withdrawal order will necessarily refer to the number of the official journal containing at the same time time as the notice of extension, the full text of the agreement. THE parts of the agreement which are not extended, will be reproduced in full in the body of the decree, with reference to the pages of the official journal above.

CHAPTER IV: NATIONAL COLLECTIVE AGREEMENT INTERPROFESSIONAL

Article 98: Definition

National inter-professional collective agreements can be concluded under the same conditions as those provided for collective agreements subject to extension.

However, by way of derogation from the provisions of Article 92, a national inter-professional collective agreement may contain only some of the clauses provided for in Articles 91 and 92.

CHAPTER V: COLLECTIVE COMPANY AGREEMENT OR ESTABLISHMENT

Article 98: Definition

A collective agreement concerning a company or a
or several companies or one or more establishments of a company can be concluded
between:

- on the one hand, one or more employers or a group
employers;

- and on the other hand, company staff delegates or
of the establishment.

Article 100: Purpose

The purpose of the company or establishment agreement is:

- in the presence of a simple or extended collective agreement
applicable to the company or establishment to adapt it to the
particular conditions of the company or establishment considered, or to provide for
new or more favorable provisions for workers.

- in the absence of any collective agreement, to define the
conditions of work, employment and social security, as if it were a simple collective
agreement.

THE COMPANY

TITLE

ENTREPRENEUR

Article 101: Definition of company and establishment

Any natural or legal person, under private law or under the law public, employing one or more workers, constitutes a company.

The company includes one or more establishments. Each establishment is made up of a person or a group of people working together in a specific place, under a common authority, the head of establishment representing the company.

A given establishment is part of a company.

A single, independent establishment constitutes a business.

Article 102: Definition

The business manager is the natural person who, in the company, assumes management power, regulatory power and disciplinary power.

If the business is owned by a natural person, he or she is its head if he or she operates it directly.

If it is operated in the form of rental management, the manager is the head.

If the business is incorporated as a person legal entity, the business manager is the natural person designated by the law or statutes to legally represent it.

CHAPTER I: POWERS OF THE BUSINESS MANAGER.

SECTION I : MANAGEMENT POWER

Article 103: Creation and closure of business

The business manager is responsible for the decision to create a business or to close it permanently subject to fraud of the law.

Article 104: Hiring

The company manager is responsible for deciding the number of jobs to be created and hiring people capable of occupying them, subject to respecting the principle of non-discrimination and the hiring priority rights provided for by the legislation in force. .

He is also responsible, under his responsibility, for setting the number and nature of jobs to be eliminated for economic reasons, subject to respecting the specific rules for dismissal for such reasons.

Article 105: Organization of work

The business manager also has the power to organize the work vail, in particular:

- by determining schedules, working conditions and tasks to be accomplished;

- by the choice of work instruments and the layout of the premises;

- by assigning workers to company tasks in accordance with their professional qualifications and skills or contractual provisions.

The organizational power of the company manager is exercised subject to the powers conferred by law on staff representatives with regard to the regulation of working conditions.

SECTION II : REGULATORY POWER

Article 106: Internal regulations

In any establishment employing more than twenty workers, internal regulations must be established by the company manager and filed with the secretariat of the local labor court within three months. follow the opening of the business or where the workforce reaches the minimum indicated above.

The internal regulations established by the head of the establishment must contain exclusively the rules relating to technical organization of work, discipline and requirements concerning hygiene and security, necessary for the proper functioning of the establishment.

Any clause foreign to the objects mentioned above is void by operation of law.

An order from the Minister of Labor taken after consulting the national labor, employment and social security council will determine the terms of application of this article and in particular the rules relating to the approval, filing and publication of the internal regulations.

SECTION III: DISCIPLINARY POWER

Article 107: Principles

The company manager exercises disciplinary power in accordance with the provisions of the collective agreement or regulations interior.

In the absence of a collective agreement or internal regulations, he may also exercise disciplinary power provided that he collect beforehand, the worker's explanations on the fault which is alleged against him and to impose a sanction proportionate to the fault.

In any event, disciplinary power is exercised under subject to judicial review.

Article 108: Disciplinary misconduct

A disciplinary sanction cannot be imposed against a worker only if he has committed a fault in the exercise of his occupation.

Mistakes committed outside of work time or place cannot give rise to a disciplinary sanction except in cases of violation of professional secrecy or damage to the reputation of the company. se.

Article 109: Disciplinary proceedings

No disciplinary action can be taken against a worker for a fault in which the company manager or one of his representatives have known about for over a month.

However, when disciplinary misconduct cannot be established that after completion of criminal proceedings, the period of one month provided for in the preceding paragraph only runs from the day on which the criminal decision becomes final.

Article 110: Disciplinary sanctions

When disciplinary sanctions are not provided for by the internal regulations or the collective agreement, the company manager may pronounce, depending on the seriousness of the fault, a warning, a reprimand, a layoff of less than or equal to eight days, the dismissal with or without notice.

Under no circumstances can the company manager impose a financial penalty resulting in a reduction in the remuneration normally due for the work provided.

CHAPTER II: OBLIGATION AND RESPONSIBILITY OF THE CHIEF CORPORATE

Article 111: Obligation

The business manager, as employer, assumes all contractual obligations taken towards the worker and all these imposed on him by labor and safety legislation social.

Article 112: Criminal liability

Unless otherwise expressly provided for by law, the The business manager cannot be held criminally liable for offenses committed by employees, nor civilly liable for financial penalties pronounced against them.

Article 113: Civil liability

The business manager, as an employer, is responsible for against third parties for damages caused to them by workers to their service or by the things in his custody in the terms of law common.

He cannot exercise recourse action for damages. against employees responsible for damage caused to third parties or to the company only in the event of gross negligence.

CHAPTER III: BAILMENT

Article 114: Principle

Security for the commitments and liability of the worker carrying out certain functions can only be provided in favor of the employer in the cases provided for by law, regulations or the collective agreement.

However, any deduction from wages whose purpose is to ensure direct or indirect payment by a worker to an employer, his representative or any intermediary, with a view to obtaining or retaining employment, is prohibited.

Article 115: Receipt and deposit

Any employer who is given by a worker, as security in place of a deposit, cash or securities, must issue a receipt and mention it in detail in the employer register.

Any sum or securities pledged must be deposited within one month of their receipt by the employer. Mention of this deposit must be made in the employer's register and justified by a certificate of deposit kept at the disposal of the labor inspectorate.

The Minister of Labor fixes by order the terms of this deposit, as well as the list of banking and financial establishments authorized to receive it.

Article 116: Withdrawal of deposit

Withdrawal of all or part of the deposit can only be made with the dual consent of the worker and the employer, or that of one of them, authorized for this purpose by a decision of the competent court.

Article 117: Employer's privilege

The allocation of the deposit of cash or securities to guarantee the worker's obligations results in the benefit of the employer, constitution of a preferential right of pledgee over the are deposited.

STAFF REPRESENTATIVES

CHAPTER I: STAFF DELEGATES

SECTION I : INSTITUTION OF STAFF DELEGATES

Article 118: Institution in each establishment

Staff representatives are established in all establishments.
where more than ten workers are usually employed.

Each delegate has a substitute, elected under the same conditions,
who replaces him in the event of justified absence, death, resignation, change of professional category, transfer to a
other establishment, termination of employment contract, loss of conditions required for eligibility.

Article 119: Number of delegates

The number of staff delegates per establishment is
fixed as follows:

- from 11 to 25 workers: 1 titular delegate and 1 substitute;

- from 26 to 50 workers: 2 full delegates and 2 substitutes;

- from 51 to 100 workers: 3 full delegates and 3 substitutes;

- from 101 to 250 workers: 5 full delegates and 5 substitutes;

- from 251 to 500 workers: 7 titular delegates and 7 substitutes;

- from 501 to 1000 workers: 9 full delegates and 9 substitutes;

There will then be 1 titular delegate and 1 alternate delegate per additional tranche of 500 workers.

Article 120: Election of staff delegates

Full and alternate delegates are elected by the staff of each establishment.

Their mandate is for a period of two years.

They can be re-elected.

The election takes place by secret ballot and in an envelope.

The ballot is a two-round list ballot with representation proportional.

In the first round of voting, each list is established by the most representative professional union organizations within the establishment for each category of staff.

If the number of voters is less than half of those registered, a second round of voting will be held, for which voters will be able to vote for lists other than those presented by the trade union organizations.

Seats are allocated by proportional representation, with remainders allocated to the highest average.

Article 121: Disputes relating to the election

Disputes relating to the electorate, the eligibility of staff delegates, as well as the regularity of electoral operations fall within the jurisdiction of the labor court which rules urgently in first and last resort.

The decision of the labor court is subject to an appeal in cassation before the supreme court in the forms, deadlines and conditions provided for by law for this appeal in social matters.

SECTION II : MISSION OF STAFF DELEGATES

Article 122: Functions

The staff delegates' mission is:

- to present to employers all individual or collective complaints which have not been directly satisfied
concerning working conditions and worker protection,
the application of collective agreements, professional classifications and regulatory or conventional salary rates;

- to refer to the labor inspectorate any complaints or claims concerning the application of legal and regulatory requirements which it is responsible for monitoring;

- to ensure the application of requirements relating to hygiene, worker safety and social security and to propose
all useful measures on this subject;

- to communicate to the employer any useful suggestions aimed at improving the organization and performance of the company;

- to share with the employer their opinions and suggestions on the dismissal measures envisaged for economic reasons.

Notwithstanding the above provisions, workers have the facility to present their complaints themselves, individually, and
suggestions to the employer.

Article 123: Hours of delegation

Except in exceptional circumstances and unless otherwise agreed, the head of the establishment is required to allow staff representatives the time necessary to carry out their duties within the limits of a duration which cannot exceed fifteen hours per month.

This time is paid to them as working time. He must be assigned exclusively to tasks relating to the mission of delegates

personnel as defined by law, regulations and collective agreements.

Article 124: Implementation order

An order from the Minister of Labor determines the terms of application application of sections I and II of this chapter and, in particular:

- the conditions required to be a voter or eligible;

- the terms of distribution between the different electoral colleges and the distribution of seats between the different categories of staff ;

- the practical arrangements for the election;

- the model of the election report that the employer is required to send three copies, within a week, to the inspector or to the labor controller within his jurisdiction;

- the conditions for revocation of the delegate by the college of workers who elected him;

- the material resources made available to them such as, in particular, premises and display panels;

- the conditions under which they will be received by the employer or his representative.

SECTION III: TERMINATION OF STAFF DELEGATES

Article 125: Necessary and prior authorization

The employer must request authorization from the local labor and social security inspector in order to dismiss a staff representative.

The request is made by registered letter with acknowledgment of receipt or by simple letter of which the inspector must acknowledge receipt by signing the copy.

Article 126: Gross misconduct – Dismissal

However, in the event of serious misconduct, the employer may immediately dismiss the delegate(s) affected by the dismissal while awaiting the final decision of the labor and social security inspector.

If dismissal is refused, the layoff is canceled and its effects automatically removed. If the dismissal is authorized, it retroactively applies to the first day of the layoff.

Article 127: Decision of the labor inspector

The labor and social security inspector must render a reasoned decision within fifteen days of filing or receipt of the request for authorization of dismissal.

Failure to notify a response within this period automatically applies except in the case where the inspector notifies the employer of his decision to carry out an investigation before the expiry of this period, in which case it is increased to thirty days.

Article 128: Appeal against the decision of the labor inspector

The decision granting or refusing the dismissal of a personnel delegate definitively relieves the labor and social security inspector of the authorization procedure.

It is not subject to any appeal other than the hierarchical appeal filed before the minister responsible for labor within the deadline of
fifteen days following notification of the inspector's decision or
the expiration of the period of fifteen or thirty days without the inspector having made a decision.

Article 129: Decision of the Minister of Labor

The Minister responsible for Labor has a non-extendable period of thirty days from the date of referral to render his decision.
In the absence of a decision taken within this period, the Minister is deemed to have confirmed the decision of the labor and social security inspector.

The minister's decision is subject to appeal for excess
to be able to appear before the Supreme Court within the time limits, forms and conditions provided for the exercise of this appeal in administrative matters.

Article 130: Nullity of dismissal

Any dismissal of a staff representative carried out:

- without the prior authorization of the labor inspector and
social security has been requested;

- despite the cancellation by the Minister responsible for labor of the express or tacit authorization of dismissal granted by the labor and social security inspector;

- any dismissal of a staff representative occurring in
violation of these provisions entitles you to damages.
loans.

Article 131: Scope of application

The provisions of this section are applicable:

- to staff representatives during the period included
between the date of submission of the lists to the head of the company and that of the ballot;

- to staff representatives during the period included
between the end of their mandate and the expiration of six months following the new election.

CHAPTER II: BUSINESS ADVISORY COMMITTEE OR ESTABLISHMENT

Article 132: Establishment of advisory committee

An advisory committee is established in any company with more than 250 workers.

In companies with establishments distant from more than 50 kilometers and comprising more than 250 workers, it is created establishment advisory committees whose composition and functioning are identical to those of company consultative committees.

In this case, a central company advisory committee is established composed of two full members and two alternate members per establishment, designated by each of the establishment advisory committees.

Article 133: Composition of the advisory committee

The business advisory committee includes the business manager or his representative president and the members representing the staff.

The number of members of the advisory committee is set as follows:

1°) for managers and engineers: 1 full member, 1 substitute member;

2°) for supervisors and similar personnel: 1 full member and 1 substitute member;

3°) for workers and employees depending on their number:

- from 250 to 500: 3 full members, 3 substitute members;

- from more than 501 to 1000: 4 full members, 4 members substitutes;

- beyond 1000: 5 full members, 5 substitute members.

The mission of the advisory committee is simply consultative and its opinions are not binding on business leaders.

The business manager is required to inform the committee of the follow-up reserved for his opinions.

Article 134: Election of members of the advisory committee

Advisory committee members are elected by staff of each company or, where applicable, each establishment.

Their mandate is for a period of two years. They can be re-elected.

The election takes place by secret ballot and in an envelope.

The ballot is a two-round list ballot with representation proportional.

In the first round of voting, each list is established by the most representative professional union organizations within the the company or, where applicable, the establishment for each category of staff.

If the number of voters is less than half of those registered, it will be held in a second round of voting for which the voters will be able to vote for lists other than those presented by the trade union organizations.

Seats are allocated by proportional representation, remainders being attributed to the highest average.

Article 135: Dispute

Disputes relating to the electorate, the eligibility of the members of the advisory committee as well as the regularity of the electoral operations are within the competence of the labor court which rules urgently in first and last resort .

The decision of the labor court may be the subject of an appeal in cassation before the supreme court in the forms, deadlines and conditions provided for by law for the exercise of this remedy in matters social.

Article 136: Role and mission of the advisory committee

The advisory committee collaborates with company management:

- improving working, employment and living conditions workers in the company;

- improving production and expanding the business socket.

The advisory committee must be consulted for its opinion on any project or decision relating to:

- to the social works of the company, in particular, the commissaries, medical and health services, infirmaries, crèches, schools, kindergartens;

- sporting, cultural and educational activities;

- housing for staff who do not benefit from housing service granted by the employment contract or regulations;

- health and safety issues whose competence is devolved to the health and safety advisory committee pursuant to article 252.

The mission of the advisory committee is simply consultative and its opinions are not binding on business leaders.

The business manager is obliged to inform the committee of the follow-up to these opinions.

Article 137: Means of action

The company manager or, where applicable, the head of the establishment is required to allow the members of the advisory committee, in the limits of a duration which, except in exceptional circumstances or contrary agreement, cannot exceed fifteen hours per month, the time necessary to carry out their duties. This time must be assigned exclusively to tasks relating to the mission specified in the previous article.

This time, as well as that of participation in meetings of the advisory committee during working hours, is paid as work time.

Article 138: Dismissal of members of the advisory committee

The provisions of articles 125 to 131 are applicable to the dismissal of members of the advisory committee.

Article 139: Implementing decree

An order from the Minister of Labor taken after consulting the National Council for Labor, Employment and Social Security determines the terms of application of this chapter and in particular:

1°) the conditions required to be a voter and eligible;

2°) the terms of distribution of personnel between the different electoral colleges and the distribution of seats between the different categories of staff;

3°) the practical modalities of the election;

4°) the model of the election report that the employer must send in three copies, within a week, to the labor inspector;

5°) the conditions for revocation of the member by the college of workers who elected him;

6°) the material resources made available to them such as, in particular, premises and display panels;

7°) the operating conditions of the advisory committee business or establishment.

TACHERONNAT SUB-COMPANY

CHAPTER I: SUB-COMPANY

Article 140: Definition

The sub-company contract is one by which a company, called the main company, entrusts another company called a sub-company or subcontractor with the execution of all or part of a work.

The subcontractor or subcontractor must be:

- registered in the trade or trade register;

- owner of a business;

- registered on the tax roll under a taxpayer number;

- registered with the national social security fund.

Article 141: Declaration to the labor inspectorate

Any sub-company contract must be the subject of a declaration by the main contractor to the labor inspectorate and the national social security fund.

This declaration must be made before the execution of the contract sub-enterprise, and include the following information:

- the object, location and expected duration of execution of the sub-enterprise;

- the name of the subcontractor;

- the address of the sub-contractor's business;

- the registration numbers of the subcontractor in the register be of commerce and to the national social security fund;

- the subcontractor registration number on the tax roll.

Article 142: Effect of the regular sub-enterprise contract

There is no legal link between the main contractor or the project owner on the one hand, and the workers engaged in the links of an employment contract with the subcontractor, on the other hand.

The workers do not have any action against the main contractor and the project owner other than the direct action provided for by the code of obligations and contracts relating to business contracts.

Article 143: Effect of the irregular business or sub-business contract

Any subcontractor contract is considered to be a tasking contract and, as such, subject to the provisions of Chapter II of this Title if the subcontractor does not meet the conditions set out in Article 140, or if the contractor does not has not made the sub-enterprise declaration provided for in article 141.

The same applies to the sub-contractor contract when the project owner entrusts the execution of a work to another contractor who does not meet the conditions required under article 140.

CHAPTER II: TACHERONNAT

Article 144: Definition

The tasking contract is one by which a company entrusts an intermediary called a tasker with the task of recruiting workers and possibly providing them with the tools and raw materials with a view to carrying out a specific work:

- either directly for the benefit of the company, called the project owner;

- either indirectly for the benefit of the project owner who has contracted with the company called the main company.

SECTION I : FORMATION OF THE TACHERONNAT CONTRACT

Article 145: Validity

The tasking contract is only valid if the tasker is:

- registered in the trade register;

- registered on the tax roll under a taxpayer number;

- registered with the national social security fund.

Article 146: Form

Before its execution, the tasking contract is
passed in writing and submitted to the registration visa of the inspector of
work from the place of performance, failing which the company is substituted
to the taskmaster in all his obligations towards workers and social security institutions.

Failure to issue the registration visa within the deadline
eight days from the date of submission of the contract to the labor inspectorate,
noted by an acknowledgment of receipt or by a discharge on a
copy of the contract, the said visa is deemed acquired.

SECTION II : OBLIGATION OF THE TACHERON

Article 147: Principle

The worker is considered, in relation to the workers he hires, as their employer. As such, he is subject to all the obligations of an employer provided for by labor and labor legislation.
social Security.

Article 148: Prohibitions

Bargaining or exploitation of workers by the
taskmaster are prohibited.

The exploitation of workers means the fact, for the task-ron, of being given directly or indirectly by the main contractor any remuneration of the workers, in return for part of their commitment or of hiring them for a job that he
knows it must be carried out in conditions contrary to laws, regulations and collective agreements in force.

The worker is also prohibited from subcontracting, in whole or in part, its contracts.

Article 149: Obligation of display, advertising and information

1°) the worker is required to display, permanently,
in each of the workshops, stores, construction sites or other places used,
a notice mentioning:

- his name, address and status as a worker;

- the name, address and profession of the main contractor or the project owner with whom he has entered into a contract.

2°) The tasker must also, prior to execution
of the work contract, send to the labor inspector:

- a duplicate of the notice mentioned above;

- a declaration specifying the address of the workshops, stores,

construction sites or other locations used and the number of workers it plans to employ.

3°) The tasker must communicate to the main contractor displays the paydays for the work period.

SECTION III: OBLIGATION OF THE MAIN CONTRACTOR

Article 150: Display and advertising obligations

The main contractor must display in its offices and maintain updates the list of taskers with whom he has signed a contract.

He must pay the worker at the very place where the work is carried out. executed, and the services provided, in the presence of the workers serving the tasker and on the days fixed for the latter's pay.

Article 151: Responsibility of the main contractor and the master of the work

1°) In all cases where work is carried out through the intermediary of a contractor, the main contractor is, in the event of his insolvency, substituted for him with regard to the together its obligations towards workers and security institutions social which have direct action against the main contractor.

The latter has recourse action against the worker.

2°) in the event of insolvency of the worker, the project owner or the main contractor is not liable for debts owed to the workers and social security institutions only up to what is owed by him to the worker at the time when his creditors take direct action against him or notify him of a ban on pay.

Article 152: Implementation order

An order from the Minister of Labor taken after advice of the national council of labor, employment and social security fixes, in the event of need the terms of application of this title.

WORKING CONDITIONS

LABOR OF WOMEN AND CHILDREN

CHAPTER I: FITNESS FOR WORK

SECTION I: MINIMUM AGE

Article 153: Age for admission to work

Children cannot be employed in any company, even as apprentices, before the age of 14 or if, having exceeded this age, they are still subject to compulsory education.

Excluding employment in maritime fishing, children of either sex aged twelve or over may, in conditions set out in article 154 be employed in establishments where members of their families are employed.

Article 154: Conditions of exemption

No child over the age of twelve and under the age of fourteen may be employed without the express authorization of the Minister responsible for labor.

No exemption from the minimum age for admission to work likely to undermine the requirements relating to the obligation school cannot be granted.

Children over the age of twelve may, outside of hours fixed for school attendance, be employed in work provided that this work:

- are not harmful to their health and normal development;

- does not exceed two hours per day, both on school days and vacation days, the total daily number of hours devoted to school and light work not exceeding seven hours.

Article 155: Prohibited times

The employment of children under the age of fourteen is prohibited:

- Fridays and public holidays;

- at night, from 8 p.m. to 8 a.m.

Article 156: Keeping a register

Every employer must keep at the disposal of the labor and social security inspector a register indicating the names and dates of birth of all persons under eighteen years of age whom he employs, as well as their working hours. of work.

Article 157: Modalities of application

An order from the Minister of Labor establishes the terms of application of the provisions of this section.

SECTION II: SUITABILITY EXAMINATION OF CHILDREN AND ADOLESCENTS CENTS FOR USE

Article 158: Mandatory aptitude examination

In any company or establishment, young workers aged under twenty-one can only be hired if they have been recognized as suitable for the job to which they will be employed following a medical examination supplemented by an x-ray examination. lungs.

The medical examination for fitness for employment must be carried out free of charge by the doctor attached to the company's medical department or, failing that, by an approved doctor at the expense of the employer.

It must be noted by an annotation made in the register provided for by article 156

Article 159: Certificate of fitness for employment

The medical certificate of fitness for employment can:

- prescribe specific conditions of employment;

- be issued for a specific job or for a group of jobs;

- be issued for a limited period.

The employer is required to classify and make available to the labor and social security inspectorate the medical certificate of fitness for employment.

Article 160: Periodic medical check-up

The suitability of young workers for the job they carry out must be subject to a six-monthly medical check-up until they reach the age of eighteen.

The labor and social security inspector may require more frequent checks.

Failure to comply with the provisions of this article results in termination of the employment contract at the expense of the at-fault party.

Article 161: Ministerial order

A ministerial decree may lay down the terms of application of the provisions of this section.

SECTION III: REST OF WOMEN IN CHAIR OR BREASTFEEDING THEIR CHILDREN

Article 162: Rest for women in childbirth

The employer is prohibited from employing the female employee during throughout the duration of the maternity leave provided for in Article 39.

Article 163: Rest for breastfeeding

During the rest of female employees for breastfeeding, the rest hour provided for by article 40 can be divided into two periods which will be taken by the mothers in agreement with their employer. HAS
failing agreement, these periods will be fixed in the middle of each
half day of work.

An order from the Minister of Labor, taken after consulting the National Council for Labor, Employment and Social Security, may set the obligation for establishments employing more than one hundred women to provide a breastfeeding room, either in the establishment or at
proximity.

CHAPTER II : NIGHT WORK OF WOMEN AND CHILDREN

Article 164: Definition of night work

Night work is any work carried out between 10 p.m. and 5 a.m.

However, for children under the age of sixteen, night work is work carried out between 10 p.m. and 6 a.m.

Article 165: Night rest

Night rest for women and children must last at least twelve consecutive hours;

Article 166: Prohibition of night work

Night work by women and children under the age of eighteen is prohibited in factories, factories, mines, mining and quarries, construction sites, workshops and their outbuildings of any nature whatsoever.

Article 167: Temporary exemptions

1°) for industries in which the work applies to materials likely to deteriorate very quickly, the provisions of articles 165 and 166 may be temporarily waived when this is necessary to save these materials from inevitable loss .

2°) In all establishments referred to in Article 166, the provisions of Articles 165 and 166 may be waived when this is necessary to prevent or repair serious accidents that occur unexpectedly.

However, these exemptions are limited to women and only children aged sixteen to eighteen.

Article 168: Conditions for temporary exemptions

Within the limit of fifteen nights per year, the exemptions provided for in article 167 may be used upon simple notice given to the labor and social security inspector, before the start of exceptional work.

The exemption provided for in Article 167 1°, to the period of fifteen nights per year, may not be used without prior special authorization from the labor and social security inspector.

In all cases where the exemption is used, women and children must benefit from compensatory rest of the same duration as the work carried out due to the exemption.

Article 169: Permanent exemptions

Permanent exemptions may be granted by the labor and social security inspector after consultation with staff representatives for women employed in the establishments referred to in article 166 in the hygiene and well-being department. , and who will not normally perform manual work.

WORKING TIME

CHAPTER I: WEEKLY DURATION

Article 170: Legal duration in non-agricultural businesses

In all non-agricultural businesses, legal working hours cannot exceed forty hours per week and eight hours per day.

Orders from the Minister of Labor, taken after consulting the National Council for Labor, Employment and Social Security, will determine by branch of activity, by professional category, for the entire territory or for a region, the terms of application of the forty-hour week, the exemptions and the conditions of use of these exemptions.

Article 171: Legal duration in agricultural businesses

In agricultural businesses, the legal annual duration of work effective work cannot exceed two thousand four hundred hours.

Within this limit, an order from the Minister of Labor, taken after consulting the National Council for Labor, Employment and Social Security, sets the legal weekly duration according to the seasons and regions.

Article 172: Overtime

Hours of work worked each week beyond the legal duration defined by articles 170 and 171 are considered overtime and give rise to the salary increase.

The terms of authorization and remuneration for overtime worked beyond the legal duration, day or night on working days, weekly rest or public holidays are determined by the collective agreement or failing that by order of the Minister of Labor taken after advice of the National Council for Labor, Employment and Social Security.

However, with regard to public services and public establishments, these terms and conditions are determined by decree taken by the Council of Ministers.

Article 173: Daily rest

The daily work of every worker must be followed by uninterrupted rest of at least ten consecutive hours, without prejudice to article 165.

CHAPTER II: WEEKLY REST AND HOLIDAYS

SECTION I : WEEKLY REST

Article 174: Principle

It is prohibited to employ the same worker for more than six days a week.

The weekly rest must be at least twenty-four consecutive hours, it must be given on Friday.

Article 175: Modalities of application and exemptions

An order from the Minister of Labor, taken after consulting the National Labor Council, employment and social security, determines the terms of application and possible exemptions from the preceding article, in particular the professions for which and the conditions in which the weekly rest can, exceptionally and for clearly established reasons, be given in rotation or collectively on days other than Friday. It can be suspended by compensation for ritual or local festivals and, determined over a period longer than a week, or given over two half-days.

In public services and public establishments, the terms of weekly rest are set by a decree taken by the council of ministers.

SECTION II : HOLIDAYS

Article 176: Determination by law - Principles

Non-working public holidays as well as those which are non-working and paid are determined by law.

Public holidays that are actually non-working only give rise to the suppression of wages for workers paid by the hour or by the hour.
the day.

Non-working public holidays do not give rise to any salary increase.

Public holidays declared paid by law, if they are worked, give rise to an increase in salary.

Article 177: Ministerial orders

Collective agreements or ministerial decrees may
determine the conditions under which public holidays declared non-working or non-working and paid by law are remunerated if they are worked.

PAID VACATION

CHAPTER I: ACQUISITION OF THE RIGHT TO PAID LEAVE

Article 178: Actual services giving entitlement to leave

Any worker, whether or not having their habitual residence in Mauritania, acquires the right to paid leave at the end of a period of twelve months of effective service.

Services performed temporarily on behalf of the same employer, outside Mauritanian territory, entitle you to paid leave under the same conditions.

Periods of suspension of the employment contract are considered as periods of effective service in accordance with the provisions of article 32.

Article 179: Reference period

The reference period to be taken into consideration for the determination of actual services is that which extends from the date of the worker's hiring or return from the previous leave on the last day preceding that of his departure on leave.

CHAPTER II: DURATION OF PAID LEAVE

Article 180: Number of days of leave

At the end of the duration of effective services defined by article 178, the worker has the right:

- one and a half working days of leave per month of service effective if he is at least eighteen years old;

- two working days of leave per month of effective service if he is under eighteen years of age;

- three working days of leave per month of effective service if it concerns a worker who does not have his usual residence in Mauritania.

Article 181: Increase in the duration of leave depending on seniority

The duration of paid leave fixed in article 180 is increased, taking into consideration the seniority of the worker in the company due to:

- one working day for ten to fifteen years of seniority;

- two working days for fifteen to twenty seniority years ;

- three working days for seniority greater than twenty years.

Article 182: Increase in the duration of leave for mothers of family

Employees who are mothers are entitled to one working day of additional leave per year for each child living under fourteen years old registered in the civil registry.

Article 183: Increase in the duration of leave depending on travel times

For expatriate or displaced workers taking leave in their usual residence, outside the place of employment, the duration of leave is increased by the travel time corresponding to the duration of the round trip carried out under the conditions set out in this present contract. code for the transport of workers and, possibly, waiting times for the transport ticket.

Article 184: Non-deductibility of absences

Within the annual limit of ten days, exceptional paid leave granted to the worker on the occasion of family events, in application of the regulations or collective agreements in force, cannot be deducted from the duration of the acquired leave.

Within the annual limit of fifteen working days which cannot be deducted from the duration of paid leave, authorizations for absence without pay may be granted to the worker in order to attend statutory congresses and seminars of workers' union organizations.

These authorizations of absence may be taken in one or two installments without being able to extend to more than three, in the same calendar year, the contract suspensions resulting from annual leave and the application of these provisions.

CHAPTER III: ENJOYMENT OF PAID LEAVE

Article 185: Leave period

The worker has the right to demand to take his leave at end of the duration of effective services fixed by article 178.

However, the effective enjoyment of leave may be postponed by agreement between the parties without the effective length of service exceeding three years and subject to six working days of leave to be taken each year.

Article 186: Continuity of leave

Leave not exceeding twelve working days must be continuous.

If it exceeds twelve working days, it may be divided by agreement between the parties provided that at least one fraction is twelve working days.

Article 187: Place of leave

The worker is free to take leave in the country of his choice subject to the provisions relating to transport.

Article 188: Paid leave allowance

The employer must pay the worker, at the time of his departure on leave, an allowance equal to one twelfth of the sums received by the worker during the reference period for the execution of compensation in the nature of expenses, benefits in kind incidentally linked to employment or lump sum compensation in lieu thereof which does not have the character of remuneration in kind.

The remoteness and travel allowances provided for in Articles 199 and 200 are not taken into account for the calculation of paid leave allowances.

On the other hand, any deductions made from salary for benefits in kind are taken into account in the calculation of the leave allowance.

Article 189: Compensation for paid leave

In the event of termination of the contract or in the event of expiry of the contract before the worker has acquired the right to paid leave, compensation calculated on the basis of the rights acquired under the above provisions must be granted in place of the leave.

The worker hired by the hour or by the day for a short-term occupation not exceeding one day, receives compensation in lieu of paid leave, at the same time as the acquired salary, at the latest at the end of the day, equal to the twelfth of the remuneration acquired during the day. This compensation must appear on the pay slip in the form of a separate entry from the salary.

Apart from these cases, any agreement providing for the granting of compensatory compensation in lieu of leave is null and void.

Article 190: Ministerial order

An order from the Minister of Labor, taken after consulting the National Labor, Employment and Social Security Council, specifies, where necessary, the conditions of application of this title.

WAGES

CHAPTER I: GENERAL PROVISIONS

Article 191: Principle “for equal work, equal pay”

Under equal conditions of work, professional qualification and output, pay is equal for all workers regardless of their origin, gender, age and status.

By work, we mean the job actually occupied by the worker as defined by the texts in force on the basis of the work it involves.

Article 192: Principle “no salary without work”

No salary is due in the event of absence except in cases provided for by law, regulations, collective agreements or the agreement of the parties.

Conversely, the salary is due to any worker who is effectively available to his employer at the agreed times and place of work, except for cases of economic or technical unemployment.

Article 193: Determination of salary and its accessories

The worker's remuneration is determined, either by collective agreement, by decree, or by agreement of the parties in compliance with the minimum provided for by the regulations or collective agreement in force.

Workers must be informed individually or collectively

lectively, in writing or by posting or by any other means appropriate to the situation of the company, of the salary conditions which apply to them before starting work or on the occasion of any change in these conditions.

Article 194: Taking into account commissions, bonuses and compensation

When the remuneration for services is made up, in whole or in part, of commissions or bonuses and various services or compensation representing these services to the extent that these do not constitute reimbursement of expenses, this is taken into account for the calculation of paid leave allowance, notice pay, severance pay and damages.

The amount to be taken into consideration, in this respect, is the monthly average calculated over the last twelve months of activity, of the elements referred to in the previous paragraph or over the period of activity if this is less than twelve months.

CHAPTER II: ELEMENTS OF SALARY

SECTION I : GUARANTEED INTERPROFESSIONAL MINIMUM SALARY AND HIERARCHIZED MINIMUM WAGES

Article 195: Setting the SMIG

A decree, taken after consulting the National Council for Labor, Employment and Social Security, sets the rate of the guaranteed inter-professional minimum wage.

The decree may fix:

- reduction rates applicable to workers aged less than eighteen years old.

- different rates for agricultural activities.

Article 196: Prohibition of remuneration below the SMIG

It is prohibited for any employer to pay an employee at a rate lower than the SMIG as determined by the decree referred to in the preceding article.

For the application of this article, the salary deduction includes benefits in kind and salary accessories having the character of salary supplements, excluding increases for overtime and reimbursements of expenses.

Article 197: Categorical base salaries

In the absence of collective agreements or in their silence, Orders of the Minister of Labor, taken after consultation with the National Labor, Employment and Social Security Council, set the professional categories and the minimum basic salaries that correspond to them.

SECTION II : POST OR PIECE SALARY

Article 198: Conditions of remuneration by task or piecework

When an extended or non-extended collective agreement, does not provide for remuneration by task or piecework, any employer to whom the collective agreement of practice this method of remuneration.

When provided for by a collective agreement, remuneration per task or piecework must be calculated in such a way that it provides the worker of average capacity and working normally, a salary at least equal to that of the worker paid at time doing similar work.

The minimum wage rates as well as the conditions of remuneration by task or by piecework are displayed at the offices of the employers and at staff payroll locations.

Article 199: Non-compliance with the conditions of piece-rate remuneration or to parts

The violation of the provisions of the preceding article is noted by report drawn up by the labor inspector of the supported jurisdiction of expertise. If necessary, the criminal court may appoint a new expert and sovereignly assesses whether the facts noted constitute the offense in question.

The labor court assesses the same way when it is seized of an individual dispute relating to remuneration task or parts.

SECTION III: DISTANCE COMPENSATION-DISTANCE COMPENSATION SHIFT

Article 200: Removal compensation

When the climatic conditions of the region of the place of employment differ from those characterizing the habitual residence of a worker and when this will result, for the latter, in particular constraints due to this distance, the worker will receive a distance allowance intended to compensate him for the additional expenses and constraints to which his arrival and stay at the place of employment exposes him.

Article 201: Travel allowance

When a worker is required by professional obligation on occasional and temporary travel outside of one's usual place employment, he is entitled to a travel allowance.

Article 202 : Ministerial order

The terms of allocation and the rate of these compensations are set by the provisions of collective agreements or, failing that, by order of the Minister of Labor taken after advice of the National Council for Labor, Employment and Social Security.

CHAPTER VI: BENEFIT IN KIND

SECTION I : HOUSING-FOOD SUPPLY-SILENCERS-ASSIGNMENT OF GOODS

Article 203: Provision of housing

In the event that a permanent worker, not from the place of employment and not having his usual residence, cannot, by his own means, obtain sufficient housing for himself and his family, the employer is required to provide this.

An order from the Minister of Labor establishes the cases in which the accommodation must be provided, its maximum reimbursement value, the conditions which it must meet, particularly with regard to hygiene and to ensure the protection of women and young girls not living with family.

Article 204: Supply of foodstuffs

In the event that the worker cannot, by his own means, obtain for him and his family a regular supply of basic foodstuffs, the employer is required to provide them rer.

An order from the Minister of Labor determines the regions and categories of workers for whom the provision is obligatory of a daily ration of food, the maximum reimbursement value thereof, the details in kind and weight of the basic necessities making it up, the conditions of its supply, in particular by the implementation cultivation of land reserved for this purpose.

Article 205: Transfer of goods and supplies of services in eco-nomats

A commissary is considered to be any organization where the employer directly or indirectly practices the transfer of property or the provision of services to the company's workers for their personal and normal needs.

Commissaries are admitted under three conditions:

- that workers are not obliged to provide themselves;

- that the sale of goods is made exclusively for cash and without profit;

- that the accounting of the company's commissary(ies) be entirely autonomous and subject to the control of a supervisory commission elected by the workers.

The price of the goods offered for sale must be legibly displayed.

Any business established within the company is subject to the preceding provisions, with the exception of worker cooperatives.
res.

The sale of alcohol and spirits is prohibited in commissaries, as well as at the worker's place of employment.

Article 206: Opening and closing of commissaries

The opening of a commissary under the conditions provided for in the preceding article is subject to authorization from the Minister of Labor, issued after the opinion of the local labor inspector on the proposal of the labor director. .

It can be prescribed in any company by the Minister of Labor, on the recommendation of the relevant Labor Inspector and the Labor Director.

Operation is controlled by the labor inspector who, in the event of abuse noted, can prescribe temporary closure for a maximum period of one month.

The Minister of Labor may order the definitive closure of the company's commissary(ies), based on the report of the relevant labor inspector or on the proposal of the labor director.

SECTION II : TRANSPORTATION OF THE WORKER'S FAMILY AND THEIR BAGGAGE

Article 207: Transport of expatriate workers

The transport costs of the expatriate worker, his spouse and his minor children usually living with him, as well as their luggage, are the responsibility of the employer except in the following cases:

1°) when the worker leaves his habitual residence without an individual employment contract or without an individual promise of an employment contract;

2°) when the trial employment contract is terminated or does not give rise to the establishment of a definitive employment contract, if the worker was hired at the place of employment;

3°) when the fixed-term contract is terminated prematurely due to or through gross negligence on the part of the worker, except in cases of force majeure;

4°) when the indefinite-term contract is terminated due to the worker or as a result of gross negligence on the part of the worker before the minimum duration of stay provided for in the contract has expired;

5°) when the competent court has declared the nullity of a contract payable by the worker.

In the cases referred to in 4° and 5° above, return and possibly arrival transport costs are distributed at the time of termination of the contract, between the employer and the worker in proportion to the time of service completed. having regard to the minimum length of stay provided for in the contract.

Article 208: Transport of the displaced worker

The transport costs of the worker of Mauritanian nationality or having his usual residence in Mauritania and possibly his family, displaced by the employer for the execution of his employment contract outside his usual residence, are the responsibility of

the employer under the conditions established by order of the Minister of Labor, taken after consultation with the National Council for Labor, Employment and Social Security.

Article 209: Minimum length of stay

The employment contract or collective agreement may provide for a minimum length of stay below which the transport of members of the worker's family is not the responsibility of the employer.

This duration will not exceed twelve months.

Article 210: Means of transport - class of passage - weight of baggage

The transport of the expatriate or displaced worker and his family as well as their baggage is carried out by the normal route and means left to the choice of the employer unless medically prescribed otherwise.

However, the worker is free to use a means of transport at his convenience in this case: if the means is more expensive, the additional costs are the responsibility of the worker; if it is less expensive, the worker can only demand from his employer payment of the difference.

The class of passage and the weight of baggage are determined by the job held by the worker in the company following the stipulation of the collective agreement or, failing that, following the rules set by order of the Minister of Labor taken after advice of the National Council of employment and social security.

In all cases, family expenses are taken into account when calculating the weight of baggage.

Article 211: Transport costs advanced by the worker

The transport of the worker and his family, as well as their baggage constituting a service in kind, is only subject to reimbursement by the employer to the worker when the latter has

advanced the costs of transportation acquired under the provisions of this section, and actually carried out.

Article 212: Transport times

The delays in transporting the worker by the means offered by the employer are neither included in the reference period giving entitlement to leave nor in the duration of the leave.

The duration of the leave is however reduced by the additional delays caused by the use of any means of transport slower than that offered by the employer.

Article 213: Exigibility of the right to transport

The worker who has ceased his service may require his former employer to provide him with the transport tickets to which he is entitled, within two years of ceasing work for said employer.

To this end, the latter provides the worker with a certificate establishing, on the day of termination of the contract, the exact breakdown of the worker's rights in terms of transport.

The worker who has been in the service of several successive employers and who expresses his desire to return to his usual residence, submits the certificates he holds to the last employer in exchange for the transport tickets. The last employer has a direct action before the labor court against the previous employers with a view to the distribution of the transport costs incurred, in proportion to the worker's service time with each successive employer.

An order from the Minister of Labor taken after consulting the National Council for Labor, Employment and Social Security establishes, where necessary, the terms of execution of these provisions.

Article 214: Compensation for waiting time for transport tickets

The worker who has ceased his service and who is waiting for the means of transport designated by his employer to return to his habitual residence receives from the employer compensation equal to the salary he would have received if he had continued to work. He continues to

benefit from benefits and benefits in kind.

The worker whose employment contract is signed or whose leave has expired and which remains at the disposal of his employer while waiting for the means of transport allowing him to leave his usual residence to return to his place of employment, receives from the employer, during this waiting period, compensation calculated on the basis of the leave allowance.

The compensation provided for in the preceding paragraph is also due when the worker was prevented from using the means of transport designated on the scheduled date, it is up to him to notify his employer by the most rapid means and to report and prove that the attack is not attributable to him.

Article 215: Repatriation of the body of the worker or a member of his deceased family

In the event of death, at the place of employment of an expatriate worker or displaced person or a member of his family whose travel was the responsibility of the employer, the repatriation of the body of the deceased to the place habitual residence is the responsibility of the employer.

If the family of the deceased renounces the transport of the mortal remains, the employer will cover funeral costs up to a sum fixed rate which will be defined by the collective agreement.

An order from the Minister of Labor taken after labor advice , of employment and social security may determine the conditions application of this article.

CHAPTER IV: TERMS OF PAYMENT OF SALARY

Article 216: Method of payment of salary

The salary must be paid in legal tender in Mauritania notwithstanding any clause to the contrary.

Subject to the provisions of this code relating to benefits in kind, the payment of all or part of the salary in kind, in alcohol or in alcoholic beverages is strictly prohibited.

The employer is prohibited from restricting in any way the freedom of the worker to freely dispose of his salary as he wishes.

Article 217: Place of payment

Except in cases of force majeure, pay is made at the place of work or at the employer's office when it is close to the place of work.

Under no circumstances may it be carried out in a drinking establishment or in a sales store except for workers who are normally employed there.

Article 218: Time of payment

Salaries are paid during working hours when these coincide with the normal opening hours of the fund.

It cannot be done on the day when the worker is entitled to rest. Workers absent on payday may withdraw their salary during normal cashier hours and in accordance with the establishment's internal regulations.

Article 219: Periodicity of payment - Principles

With the exception of professions for which established practices provide for a different payment periodicity and which are determined by order of the Minister of Labor, after advice from the National Council for Labor, Employment and Social Security, the salary must be paid to

regular intervals, not exceeding fifteen days for the worker paid by the hour or by the day and one month for the worker paid month.

However, the daily worker hired by the hour or by the day, for a short-term occupation is paid every day immediately after finishing work. However, companies occupying more than fifty people are authorized to pay, each month, workers whose salary is calculated on a hourly or daily, provided that a deposit representing at least less than half of the previous month's salary is paid each fortnight. Workers employed by public services are paid a times per month.

Article 220: Payment deadlines

Monthly payments must be made no later than eight days after the end of the month of work which gives right to salary; THE payments every fortnight or week, no later than four days or two days after the end of the fortnight or week which gives entitlement to salary. For any piecework or performance work whose execution must last more than a fortnight, the payment dates may be be fixed by mutual agreement, but the worker must receive every fortnight installments corresponding to at least 90% of the minimum wage and be paid in full within the fortnight following delivery of the work.

Commissions earned during a quarter must be paid within three months following the end of this quarter. Shares in profits made during a financial year must be paid within nine months following the exercise. In the event of termination of the contract of work, salary and salary accessories, bonuses and Compensation of any kind due to the worker at the time of termination must be paid upon cessation of service.

However, in the event of a dispute, the employer can obtain from the president of the labor court temporary immobilization, in his hands, of all or part of the seizable portion of the sums due.

Article 221: Establishment of a pay slip and a register of payments

Whatever the nature and duration of the work provided and the amount of remuneration acquired, any payment of salary must, unless an exception is authorized on an individual basis by the labor inspector of the jurisdiction, be the subject of a supporting document called **"Payroll Slip"** drawn up and certified by the employer and given to the worker at time of payment.

All information made on the pay slip referred to in paragraph previous are obligatorily reproduced, on the occasion of each payment of salaries, in a register called "payment register". the occasion of each pay this register is signed by each worker concerned or, if the worker is illiterate, by two witnesses including one chosen by the worker in the event of payment by cash or by check.

The structure of the pay slip and the payment register is set by order of the Minister of Labor after advice from the National Council labor, employment and social security. The payment register or any other document supporting payments is kept by the employer, at the establishment, under the same conditions as the accounting documents and must be presented, immediately, at any request from the labor inspectorate even in the absence of the head of the establishment.

Article 222: Unenforceability of notices of waiver or acceptance, without reservation of pay slips

The words "For balance of all account" or any equivalent statement subscribed by him, either at during the execution, or after the termination of his employment contract and by which the worker waives all or part of the rights he holds to his employment contract.

Acceptance by the worker without protest or reservation, of a pay slip cannot constitute a waiver on his part of the payment of all or part of the salary, salary accessories, bonuses and compensation of any kind due to him under the legislative, regulatory, conventional or contractual provisions.

Nor can it be considered as a finalized and settled account.

Article 223: Absence of pay slip or payment register

In the event of a dispute over the payment of salary, salary accessories, bonuses and allowances of any kind, non-payment is presumed if the employer is unable to produce the payment register duly signed by the worker or witnesses under the contested information, or the duplicate signed in the conditions, of the pay slip relating to the contested payment except in cases of force majeure preventing the employer from producing these documents.

ments.

However, the sums claimed for which the employer establishes payment by check, money order, transfer, direct debit or any other method of cash payment, will be deducted from the sums claimed by the worker.

CHAPTER V: PRIVILEGES AND GUARANTEES OF THE DEBT OF SALARY

Article 224: Principle

For the application of the provisions of this chapter, salary means the salary itself whatever its name.
salary accessories, leave allowance, bonuses,
compensation, benefits of any kind and damages.

Article 225: Privilege of salaries

Up to the non-transferable and non-seizable fraction of the
salary, as it results from the provisions of article 236, the worker's salary claims benefit from a general super privilege
preferable to all other general and special privileges.

Up to the amount of the transferable and seizable fraction, the worker's salary claims benefit from a general privilege
simple.

The general super privilege and the simple general privilege are exercised on the movable and immovable property of the employer, after the right preferably of the mortgagees with regard to these
last.

Article 226: Bankruptcy or judicial liquidation - Payment of salaries

In the event of bankruptcy or liquidation, the sums withheld by the treasury after the date of transfer of payments, on the
mandates due to the employer, are reported to the mass.

At the latest within ten days following the declaration of bankruptcy or judicial liquidation and by simple order of the
judge, the trustee or the liquidator pays the workers' claims.

In the event that he does not have the necessary funds, these debts must be paid from the first inflows of funds before any
other claim as indicated in article 225.

In the event that said debts are paid thanks to an advance made by the trustee, the liquidator or any other person, the lender is thereby subrogated to the rights of the worker and must be reimbursed as soon as the necessary funds are received, without no other claim can oppose it.

Article 227: Bankruptcy or judicial liquidation - Retention of the worker in his accommodation

The worker housed by the employer before liquidation or bankruptcy continues to be housed until the date of payment of his last debt or, possibly until the date of departure of the means of transport made available to him to return his habitual residence.

Article 228: Right of retention

The worker holding the object worked by him may exercise the right of retention under the conditions provided for by the legislation in force.

Movable objects entrusted to a worker to be worked, shaped, repaired or cleaned and which have not been removed within six months may be sold under the conditions and forms determined by the legislation in force.

Article 229: Legal assistance

The benefit of legal assistance is acquired automatically for any request for authorization of attachment that the worker believes he must present to the common law court.

CHAPTER VI: PRESCRIPTION OF ACTION FOR PAYMENT OF SALARY

Article 230: Limitation period

The action of any worker, for payment of salary or provision of services in kind or possibly their reimbursement, is prescribed two years from the date on which the salary or the service in kind is due.

It is when there is an account, decree, schedule, obligation or legal summons not expired or request for conciliation interrupted addressed to the labor inspector.

Article 231: Denial of the oath

The worker to whom the prescription is opposed may take the oath to the employer or his representative on the question of whether the salary he is claiming has been paid.

The oath can also be taken by widows or widowers, heirs and guardians of the employer on the same question.

Article 232: Intervention of prescription

If the oath taken is not taken or if it is recognized, even implicitly, that the sums claimed have not been paid, the action for payment of salary is prescribed by fifteen years in accordance with the provisions of the article 385 of the code of obligations and contracts.

CHAPTER VII: DEDUCTIONS FROM WAGES

Article 233: Mandatory deductions and reimbursements of transfers

Only compulsory direct debits, reimbursements of transfers granted within the framework of the regulatory provisions provided for by articles 203 and 204 and the deposits provided for by the collective agreements and individual employment contracts, can be subject to salary deductions.

Article 234: Garnishment or assignment of wages

The ceiling for loans or salary advances granted by the employer to his employee, cannot exceed six months of the transferable portion of the salary.

The reimbursement of advances of money granted by the employer to the worker cannot be subject to deductions from wages and salaries only by garnishment or voluntary transfer subscribed before the president of the Moughataa court of the place of residence or, failing that, before the labor inspector.

However, when the magistrate or labor inspector resides more than twenty-five kilometers away, there can be reciprocal written consent before the wali of the wilaya.

Salary advances already acquired are not considered as advances.

Article 235: Judicial compensation

In all cases other than those provided for by articles 233 and 234, compensation can only be made by legal decision.
This.

Article 236: Setting the transferable and seizable portions of wages

Decrees taken by the Council of Ministers after advice from the National Council for Labor, Employment and Social Security set the portions of salaries and retirement pensions subject to progressive deductions. the withholding referred to in article 234 cannot, for each pay, exceed the rates fixed by the decrees.

When calculating the withholding, it must be taken into account not only the salary or the retirement pension itself, but all the accessories of the salary and the pension, with the exception, however, of the compensation declared unseizable by the law or regulations in force, sums allocated as reimbursement of costs incurred by the worker and allowances or compensation for family dependents.

Article 237: Prohibition of deductions not provided for by law

The provisions of a collective agreement or employment contract authorizing all other deductions are automatically void.

The amounts withheld from the worker in contravention of the above provisions bear interest in his favor at the legal rate from the date they should have been paid and can be claimed by him until prescription, the course being suspended for the duration of the contract.

HEALTH AND SAFETY

CHAPTER I: GENERAL PROVISIONS

Article 238: Regulation of health and safety measures

The Minister of Labor may, by order taken after consulting the technical health and safety advisory committee:

1°) regulate the general conditions of hygiene and safety rity applicable to all workplaces;

2°) determine categories of work which, due to the dangers they present, cannot be carried out by home workers.

3°) regulate, for all work presenting particular dangers, the health and safety measures applicable in the workplace, the control and medical surveillance measures which will be imposed on companies for personnel subject to particular risks.

Article 239: Formal notice procedure

The decrees and orders issued for the application of the provisions of this title specify the cases in which labor inspectors and controllers must resort to the formal notice procedure.

When there are working conditions dangerous to the safety and health of workers not covered by the decrees and orders taken for the application of this title, the employer is required to remedy them by the inspector. or the labor controller.

The formal notice must be made in writing, either in the register employer, or by registered letter with acknowledgment of receipt, it is dated and signed.

It specifies the infractions or dangers observed and sets the deadlines within which they must have disappeared, which cannot be less than four clear days, except in cases of emergency.

The employer who has been the subject of a formal notice served under the preceding paragraph may, before the expiry of the period fixed by the formal notice and at the latest within fifteen days which follow its meaning, send a complaint to the Minister of Labor.

This suspensive complaint is submitted after investigation, to technical advisory health and safety committee which hears the complainant if necessary and gives his opinion to the Minister of Labor who will decide what action to take on the complaint.

Article 240: Declaration of work accidents and occupational diseases

The employer is required to notify the labor inspector, in a forty-eight hour period from any work accident occurring or of any occupational illness observed in the company.

The terms of this declaration are set by legislation. special applicable to work accidents and occupational diseases.

With regard to occupational diseases, the date of first medical observation of the disease is assimilated to the date of the accident.

CHAPTER II: SPECIAL PROVISIONS

SECTION I : MACHINES WITHOUT PROTECTION DEVICES APPROPRIATE TIONS

Article 241: Prohibition of sale, rental, use machines lacking appropriate protection devices

The Minister of Labor may, by order taken after consulting the committee technical health and safety advisory prohibit the sale, ex-position for the purpose of sale or rental and use of machines
whose dangerous elements are devoid of appropriate protection devices.

Dangerous machine devices or machine elements
referred to in the preceding paragraph will be determined by order of the Minister of work taken after advice of the technical health and safety committee.

The orders made pursuant to this article will take
effect one year after their publication.

Article 242: Responsibility of the buyer, tenant, exhibitor, of the user

Responsibility for the application of the regulations contained
in the orders provided for in the article above will be the responsibility of the seller, the rental company, the exhibitor, the user and their respective agents.

The buyer, the lessee to whom a device, machine or
a machine element will have been delivered under the opposite conditions
with the provisions of article 241 above and the orders taken for its application may, notwithstanding any clause to the contrary, within the time limit one year from the day of delivery, request the competent court to terminate the sale or rental and, where appropriate
applicable damages.

SECTION II : SALE AND USE OF HARMFUL PRODUCTS FOR USE INDUSTRIAL

Article 243: Determination of harmful products

The Minister of Labor may, by order taken after consulting the technical advisory committee on health and safety, determine the nature of harmful products for industrial use and the proportion above which the presence of these bodies in a complex product will give rise to the application of the measures provided for in this section.

Article 244: Conditions of sale and employment

Sellers or distributors of harmful industrial products determined by the orders provided for in article 243 above, as well as the heads of establishments where these products are used, will be required to affix to any container containing these products a label or an inscription indicating the nature of the product and warning of the danger of his employment.

This indication will be reproduced on the invoices or vouchers. delivery. The orders mentioned in article 243 above will specify the indications which must appear on these labels or inscriptions as well as as the color and minimum dimensions of the labels or inscriptions.

Article 245: Prohibition of the use of harmful products

Orders of the Minister of Labor, taken after advice of the Committee technical health and safety advisory body, may prohibit the use of certain harmful products for certain industrial work.

SECTION III: LABOR OF WOMEN AND CHILDREN

Article 246: Respect for good morals and public decency

Heads of establishments of all kinds must ensure respect for good morals and observance of public decency, particularly with regard to women and children.

Article 247: Prohibition of certain works

It is prohibited to employ children under eighteen years of age, women and pregnant women in work that exceeds their strength or which, by its nature or the conditions in which it is carried out, is likely to harm their health. or to their physical integrity or to harm their morals.

Orders of the Minister of Labor taken after advice of the Committee health and safety advisory technique, determine:

a) work prohibited to children and women or workers values prohibited only for children or only for women.

(b) establishments in which the employment of women and children is either prohibited or authorized under certain conditions.

Article 248: Examination of women and children

The Labor Inspector may require the examination of women and children by an approved doctor, in order to verify whether the work with which they are responsible does not exceed their strength. This requisition is legal if the interested parties request it.

A woman or child who cannot be kept in a job thus recognized as beyond her strength must be assigned to a suitable job. If this is not possible, the contract must be terminated with payment of notice compensation to the worker.

SECTION IV: MARITIME HYGIENE AND SAFETY

Article 249: Commercial ships and fishing boats

The provisions relating to health and safety on board commercial ships and fishing boats are laid down by the Merchant Marine Code and the regulatory texts adopted for its application.

Article 250: Large packages intended to be transported by ships and boats

The shipment of any package and object weighing one thousand kilograms or more, gross weight intended to be transported by sea or inland waterway must bear on the package, the indication of its weight marked on the outside of the package. clear and lasting way.

In exceptional cases where it is difficult to determine the exact weight, the marked weight may be a maximum weight established according to the nature and volume of the package.

Article 251: Dockers

A decree taken by the Council of Ministers, after consulting the technical advisory committee on health and safety, determines the special safety measures applicable to work carried out on land or on board for the loading or unloading of any vessel assigned to maritime navigation. or interior.

CHAPTER III: ENTERPRISE HYGIENE AND SAFETY COMMITTEE

SOCKET

Article 252: Institution and role of the health and safety committee

A health and safety committee is established in any establishment employing at least fifty workers, whose mission is to ensure the application of instructions relating to safety and security.
personnel hygiene, and to promote accident prevention
work and occupational diseases.

Article 253: Composition and functioning of the hygiene committee and of security

The composition and functioning of the hygiene committees and social security are determined by order of the Minister of Labor,
taken after advice of the technical advisory health and safety committee.

CORPORATE MEDICAL SERVICES

Article 254: Compulsory medical service

With the exception of certain public companies whose list is fixed by decree, industrial, agricultural or commercial companies or establishments must provide their workers with a medical service under the conditions provided for in this title and by the implementing decrees.

Article 255: Coverage of company medical services by the national office of occupational medicine

A national occupational medicine office has been created under the Minister responsible for labor, which will take charge of occupational medicine. The head of this office must be a doctor appointed by order of the minister responsible for labor, on the proposal of the minister responsible for public health.

This office is responsible for:

a) to manage company medical services in the premises and with the equipment available to him in the company with at least seven hundred and fifty workers on a permanent basis;

b) to create and operate inter-company medical services for companies or establishments with fewer than seven hundred and fifty workers on a permanent basis;

c) to ensure the execution of contracts concluded by the national office of occupational medicine with the State or public bodies responsible for providing the acts of the medical profession, in localities where conditions do not allow the establishment business or business-to-business services.

Article 256: Mandatory declaration of companies subject to medical service

Employers, natural or legal persons, included in the scope of application of Article 254 have, regardless of the number of workers they employ on a permanent basis, the obligation to file with the national office of occupational medicine.

- their name and the headquarters of their establishments;

- the number of their permanent workers;

- the nature of the activities of each of their establishments;

- the name and affiliation of the manager responsible for the company.

Any change must be declared to the national occupational health office within eight days at the latest. A duplicate of the declaration must be sent to the local labor inspector who transmits it to the labor director, for the purpose of informing the public health director.

The national social security fund makes known to the em-

employer, the local labor inspector, the labor director and the public health director, the inter-company service to which the employer is automatically affiliated for each of its establishments or the designation of the medical unit responsible for ensuring occupational health.

The occupational medical service will make available to employers the essential facilities of infirmary, dressing room or first aid box under the conditions which will be set by an order of the Minister responsible for labor taken after advice of the technical advisory committee for hygiene and of security.

Article 257: Mission of medical service doctors

The mission of doctors in company or inter-company medical services and medical units responsible for providing occupational health is:

a) to subject any worker, before hiring or, at later, before the trial period expires, a medical examination determining whether the worker is medically fit for the envisaged work; if he does not suffer from an illness dangerous to his work colleagues.

b) to carry out, at the request of the labor inspector, the examination of women and children in accordance with the requirements of article 248, in order to verify whether the work with which they are responsible does not exceed their strengths.

c) to carry out, each day, before they start work, a visit workers who report illness and give them or provide them with the necessary care and treatment.

d) to carry out, every day, the examination of women and children of workers living with said workers who present themselves to the visit and to give them or have them given the necessary care.

e) to evacuate or have evacuated, if necessary, to the nearest medical facility, injured or sick workers, transportable, not capable of being treated by the means by which disposes the office.

If the office does not immediately have appropriate means, it urgently reports this to the head of the nearest administrative district, who arranges for the evacuation to be carried out by the means at its disposal.

All costs incurred for this purpose must be reimbursed by the national office of occupational medicine at the official rate of transport.

f) to advise employers on the measures to be implemented to ensure the health of workers employed in the company. THE results of the visits carried out by the doctor are recorded on a special register, the model of which is established by order of the Minister responsible for labor, taken after advice of the technical advisory committee for health and safety.

Article 258: Medical inspection mission at work

Doctors in company and inter-company medical services may be responsible, on a temporary or permanent basis, for by a decree taken after advice of the national labor and employment council and social security, the mission to exercise in companies or establishments within their jurisdiction the functions devolved to medical labor inspectors by articles 382, 383 and 384.

In this capacity they exercise with regard to observation legal and regulatory provisions relating to worker health, all powers attributed to inspectors and controllers of the work by article 376. They report to the labor inspector of the jurisdiction infractions observed in the exercise of their mission.

Article 259: Employer contribution

The operating costs of the national medical office ne of work are covered by an employer contribution set in percentage of salaries on the basis of which the contribution they owe to the national security fund is calculated social security by application of the legislation establishing a social security regime.

This contribution is paid quarterly to the national office of occupational medicine.

The amount of the contribution is fixed by decree taken after notice of the National Labor, Employment and Social Security Council.

Article 260: Accounting

The national office of occupational medicine keeps accounts for all its operations under conditions set by decree.
If this accounting reveals a deficit at the end of the financial year, a The decree may prescribe the payment, by employers, of an increase in contributions according to the terms and conditions it will establish.

Article 261: Failure to declare and pay contributions formal notice

Failure to produce the declaration provided for in Article 256 and non-payment of contributions by the prescribed deadlines give rise to the application of late payment surcharges set by a ministerial decree.

The statement of sums due established by the national office of occupational medicine, after sending a letter of reminder or registered formal notice with acknowledgment of receipt and duly certified by the labor director or an official of the labor inspection body having received delegation for this purpose, with enforceable force.

However, the enforceability will only take effect upon the expiration of a period of one month from receipt of the formal notice and if, during this period, the employer has not submitted a appeal to the labor court to contest the reality or amount of the debt.

A ministerial decree specifies the forms of formal notice and the statement of sums due as well as the conditions for certification of said statement and the conditions under which the national office of occupational medicine and the labor director are informed of the appeal filed by the employer before the labor court.

Article 262: Provisional taxation, Flat-rate taxation

When the amount of salaries serving as a basis for calculating contributions has not been communicated to the office, provisional taxation is carried out on the basis of the salaries which were the subject of the most recent declaration, increased twenty-five percent.

When the employer's accounts do not make it possible to establish the exact figure of the salaries paid by him to one or more of his employees, the amount of salaries is fixed at a flat rate by the national office of occupational medicine in office. wage rates practiced in the profession.

The recovery procedure referred to in the previous article applies to provisional taxation which loses its debt value if the employer produces the declaration of wages actually paid during the period in question.

Article 263: Privilege of the national office of occupational medicine

Payment of contributions and late payment surcharges is guaranteed by a lien on the movable and immovable property of the debtor, which takes priority immediately after that guaranteeing the payment of wages.

PROFESSIONAL GROUPS

TITLE

GENERAL PROVISIONS

Article 264: Definition and purpose

Professional unions and unions of unions are
groups endowed with legal personality whose purpose is the study, representation and defense of the material moral interests of
liberal, economic, industrial, commercial and artisanal professions and their members

Article 265: Representativeness

No professional group has a monopoly on the representation and defense of professional interests.

However, in cases expressly provided for by law, the function of representation may be reserved only for the most representative professional groups.

The representative nature of a professional group is
determined based, in particular, on the following assessment elements:

- The numbers and results of the elections of representatives of the staff ;

- Contributions ;

- Independence;

- His experiences and the extent of his activity.

Representativeness at the level of the company, the profession, the branch of activity and at the national level, is assessed by the labor inspector of the jurisdiction on the local and regional level and by the labor director on the national plan, depending on the purpose for which and the territory in which union representativeness is required.

The representativeness recognized or acquired by a professional group on a national or interprofessional level does not give it a presumption of representativeness on a local or regional, or more restricted professional, level.

Article 266: Freedom of association

The right to organize is exercised freely.

Any natural person, worker or employer, without distinction of any kind or any legal entity may freely join a union of their choice within the framework of their profession.

It can also:

- Not be part of any professional group;

- In complete freedom, join the group of your choice within the framework of your profession;

- Withdraw from the professional group of which they are a member without prejudice to the right, for the group, to claim the contribution relating to the six months following the withdrawal of membership.

Article 267: Obstruction of freedom of association

Any statutory clause contrary to freedom of association is automatically void and may result in the dissolution of the professional group.

Any obstruction of freedom of association is punishable by the penalties applicable to obstruction of freedom of work.

It is prohibited for any employer to take into consideration membership in a professional group or the exercise of a

union activity to make decisions concerning, in particular, hiring, management and distribution of work, training professional, advancement, granting of social benefits and disciplinary and dismissal measures.

The employer or his representatives must not employ any means of pressure in favor of or against any professional group.

Any measure taken by the employer, contrary to the provisions of this article, is wrongful and gives rise to damages.
loans.

PROFESSIONAL UNIONS

CHAPTER I: CONSTITUTION

Article 268: Principle

Persons exercising the same profession, similar professions or professions contributing to the production of specific goods and services or the same liberal profession may freely form a professional union.

Natural or legal persons, members of a professional union, must exercise in the Islamic Republic of Mauritania the profession whose interests the union represents and defends.
However, people who have ceased to practice their profession may continue to be part of a union if they have practiced it for at least one year.

Article 269: Minor - Married Woman

Minors aged sixteen can join a union unless opposed by the person vested with paternal authority, the father, mother or guardian.

Married women practicing a profession or trade may, without authorization from their husband, join professional unions and participate in their administration or direction under the conditions set out in this title.

Article 270: Public sector agents

Agents, civil servants or not, in the public sector cannot be part of a professional union in any capacity whatsoever comprising members from the private sector; conversely, workers in the private sector cannot join unions composed of public sector agents.

Article 271: Conditions of form and validity

To be validly constituted, a professional union must possess :

- statutes approved by the majority of the constitutive assembly of the union, this assembly must include, unless otherwise exempted granted by order of the Minister of Labor, taken after advice of the council national labor, employment and social security, at least twenty members of the union meeting the conditions set out in article 268.

- an office elected by the constituent assembly composed solely of members of the union meeting the conditions set out in article 273, responsible for the administration and direction of the union.

Article 272: Mandatory information in the statutes

The statutes of a professional union must specify:

- the name of the union

- the purpose of the union

- the headquarters and address of the union

- the name and address of the national union and the central international union to which the union is affiliated or intends to affiliate;

- territorial jurisdiction and profession or economic activity whose interests he represents and defends;

- membership conditions;

- the terms of meeting of ordinary general meetings and extraordinary;

- the democratic modalities according to which the mandate of members responsible for administration is granted and renewed;

- the scope of this mandate and the powers of the agents vis-à-vis third parties;

- the duration of the union, the causes and conditions of its dissolution as well as the terms of devolution of its assets and liabilities.

Article 273: Administration and management

Members responsible for administration or management of a professional union must:

- be of Mauritanian nationality or, if they are foreigners, have proof of exercising in the Islamic Republic of Mauritania the profession defended by the union for five consecutive years at least ;

- be of legal age;

- have their legal domicile in Mauritania;

- be members of the union;

- have electoral capacity and enjoy their civil rights.

Article 274: Constitution procedure

Any professional union must, after deliberation of the constitutive assembly, submit its statutes indicating the names, nationalities, professions, domiciles and qualities of the members responsible for administration and management to:

- the wali of the administrative wilaya of the jurisdiction;

- the local labor inspection;

- the public prosecutor at the local court.

An acknowledgment of receipt is issued by each of the authorities.
administrative and judicial matters mentioned above.

Article 275: Conclusion of the public prosecutor

Within two months following acknowledgment of receipt of the filing of the statutes in his hands as indicated in the previous article and after having verified the reality of the filing of the statutes with the aforementioned administrative authorities and the legality of the statutes, the Prosecutor informs the union , the wali and the labor inspectorate of its conclusions.

If the statutes have been regularly filed and considered compliant
In accordance with the law, the prosecutor issues a registration receipt.

Otherwise, he notifies the union and the aforementioned administrative authorities of his refusal to issue the registration receipt.
is lying.

Article 276: Effects of the issuance of the registration receipt

The union only acquires legal personality and legal capacity upon delivery of the registration receipt.
Before that, it has no legal existence.

The acknowledgment of receipt issued by the authorities referred to in article 274 and the registration receipt issued by the public prosecutor do not in any way imply coverage for substantive or formal defects affecting the statutes. and the designation of directors or directors likely to come forward at a later date.

Article 277: Effects of non-issuance of the registration receipt

If, at the expiration of the two-month period provided for in article 275, the prosecutor has not informed the union of his decision or notified it of a decision refusing to issue the registration receipt, the administrators or directors normally charged, by the statutes concerned, with taking legal action, may apply to the court of the wilaya with a view to obtaining a judicial decision equivalent to the issuance of the registration receipt.

On pain of foreclosure, the recourse referred to in the preceding paragraph must be exercised within two months following the expiration of the period referred to in article 275.

Article 278: Modification of the statutes and change of administration or direction

Statutory modifications and changes occurring in the administration or management of the union are subject to the provisions of articles 274 to 277.

Article 279: Submission of a statement of staff and sections

Within three months following the registration receipt and then during the first quarter of each calendar year, the leaders of the union, at the request of the labor inspector, must submit to the labor inspectorate of the jurisdiction , a statement indicating the number of members as well as the number and headquarters of the sections.

CHAPTER II : MORAL PERSONALITY AND ACTIVITIES OF UNIONS

Article 280: Capacity to take legal action

Professional unions enjoy civil status.

They have the right to take legal action. They may, in particular, before all courts, exercise all the rights reserved for civil parties, in relation to facts causing direct or indirect harm to the collective interest of the profession they represent.

Article 281: Consultation

Unions can be consulted on all individual and collective disputes and on all questions relating to their specialty.

In contentious cases, the union's opinions are made available to the parties for communication and copying.

Article 282: Capacity to acquire - elusive goods

Unions may acquire, without authorization, free of charge or for consideration, movable or immovable property.

The furniture and buildings necessary for their administration, their libraries and their professional training courses are assimilated to social works and cannot be seized.

Article 283: Contracts and agreements

They can enter into contracts or agreements with all other unions, companies or individuals.

Collective agreements are concluded under the conditions determined by this code.

Article 284: Purchases, loans and rentals to members

If they are authorized to do so by their statutes and provided that they do not

distribute profits, even in the form of rebates to their members, unions can:

1°) purchase to rent, lend or distribute among their members, everything necessary for the exercise of their profession, in particular, raw materials, tools, instruments, machines, fertilizers, seeds, plants, animals and livestock feed materials.

2°) provide their free intermediation for the sale of products coming exclusively from the professional work or exploitations of union members, facilitate this sale through exhibitions, announcements, publications, groupings of orders and shipments without carrying out the sale under their name and under their responsibility;

Article 285: Professional works and subsidies from cooperatives ves

Unions can create, administer or subsidize professional works such as: welfare institutions, solidarity funds, laboratories, experimental fields, scientific, agricultural or social educational works, courses and publications concerning the profession.

They can subsidize production or consumer companies, cooperatives.

Article 286: Social works - Mutual aid and retirement funds

1. unions can allocate part of their resources to the creation of workers' housing, to the acquisition of land for cultivation or physical education, for the use of their members.

2. unions may, in compliance with the provisions of the laws in force, establish among members, special mutual aid and retirement funds.

The funds in these special funds cannot be seized within the limits determined by law.

Any person who withdraws from a union retains the right to be a member of the mutual aid and retirement funds for the

old age to whose assets it has contributed by contribution or payment of funds.

Article 287: Union marks

Unions may register, under the conditions determined by order of the Minister of Labor taken after consultation with the National Council of Labor, Employment and Social Security, their trademarks or labels.

They can, therefore, claim exclusive ownership in the conditions of the said order.

These brands or labels may be affixed to any product or commercial item to certify its origin and conditions of sale. manufacturing.

They can be used by all people or businesses putting these products or objects on sale.

Any collective contract clause is null and void, agreement or understanding under which the use of the union brand by an employer is subject to the obligation for him not to retain or only take into its service members of the union that owns the brand.

CHAPTER III: SUSPENSION AND DISSOLUTION OF UNIONS

Article 288: Causes of suspension or dissolution

The suspension or dissolution of the union which has not complied with the rules of constitution provided for by this code or which deviates from its union mission or whose activity is contrary to the legislation in force, may, at the request of the prosecutor of the republic, to be pronounced by the court of the wilaya of jurisdiction.

In the event of suspension, the wilaya court must, at the initiative of the public prosecutor or the union, be seized and within 90 days of the pronouncement of this measure, decide either the dissolution or the lifting of the suspension.

Article 289: Effects of dissolution

In the event of voluntary, statutory or judicial dissolution, the union's assets are vested in accordance with the statutes or, in the absence of statutory provisions, according to the rules determined at the general meeting, or failing that to a charitable organization with civil personality. appointed by the court.

Under no circumstances can they be distributed among union members.

The court may order, in the event of judicial dissolution, the confiscation of the union's property.

UNION SECTIONS AND UNIONS

Article 290: Definition

Regularly constituted professional unions can be divided into sections between which members are distributed according to their qualification or specialty, the location, company or establishment where they work.

Regularly constituted professional unions can also consult and act together to study and defend the professional interests they represent.

They can freely form unions in any form whatsoever, notably a federation or confederation, at the local, regional or national level.

Article 291: Legal condition of unions

Unions of unions are subject to all the provisions of articles 264 to 289, with the exception of articles 268, paragraph 1 and 270.

BOOK

SETTLEMENT OF LABOR DISPUTES

SETTLEMENT OF INDIVIDUAL DISPUTES

CHAPTER I: ATTEMPT AT CONCILIATION BEFORE THE LABOR INSPECTOR.

Article 292: Mandatory request for attempted conciliation

Before any referral to the labor court, the employer or worker must request that the individual dispute be submitted to an attempt at conciliation before the labor inspector or controller or his legal substitute.

The request must be made in writing.

It suspends, until the date of the closing report of the conciliation attempt, the limitation period provided for by article 230.

Article 293: Summons - appearance

In the day following receipt of the request, Friday and public holidays not included, the labor inspector or controller summons the parties to appear within a period which cannot be less than eight days from receipt of the request. summons, increased, if necessary, by the distance deadlines set under the conditions provided for by article 314.

The parties are required to appear, on the appointed day and time, before the labor inspector or controller or to be represented by an agent with special powers.

They can also be assisted either by a worker or
an employer belonging to the same branch of activity, or by a
representative of the trade union organizations to which they are affiliated.

Article 294: Non-appearance

If, on the day fixed by the summons, the applicant does not appear and
does not provide an excuse or a case of force majeure,
A report of deficiency is immediately drawn up which deprives the written request
for attempted conciliation of its suspensive effect.

If on the day fixed by the summons, the defendant does not appear
not and does not justify a case of force majeure or if he has not presented his
means of defense in the form of a brief, a report will be drawn up
report of non-conciliation by the inspector or controller of the
work which, in addition, will establish a detailed report on the matter in
cause which he will address, with his opinion, to the president of the labor court
seized on the merits.

Article 295: Mission of the inspector

The labor inspector or controller informs the parties what, based on the
information provided to him and under
subject to the discretion of the courts, their respective rights that they
adhere to the law, regulations, collective agreements and
of the individual contract.

Article 296: Minutes of conciliation

If the parties reach an agreement, the labor inspector
notes the meeting immediately by means of a conciliation report containing, on
pain of nullity:

- the signature of the parties and that of the labor inspector;

- the date of the report;

- the statement of the different heads of claim;

- the points on which conciliation took place and, if there is place the agreed points for each head of claim;

- the heads of claim which are abandoned;

- in the event of partial conciliation, requests which have not were included in the conciliation;

- no mention such as, in particular **"miscellaneous, for balance of all things considered, all causes combined"** cannot be used under penalty of nullity of the report.

Article 297: Effects of the conciliation report

The conciliation report extinguishes any legal action on the points which were the subject of conciliation.

It is presented by the most diligent party to the president of the court of the jurisdiction in which it was established. The latter affixes the enforceable form to it after having verified that it complies with the requirements of the this article. The execution is continued like that of a judgment.

Article 298: Report of non-conciliation

If there is no conciliation, the inspector notes the disagreement within a period which cannot exceed seven days by issuing a report in which he records the reasons for the failure.

Article 299: Effects and consequences of non-conciliation

In the absence or failure of the attempt at conciliation as provided for in articles 294, paragraph 2 and 298, the action is brought by written declaration made to the secretariat of the labor court.

Registration is made in a register kept especially for this purpose. effect. An extract of this registration is delivered to the party having initiated the action.

At the request of one of the parties or of the court, the inspector of the work before which was carried out, without success, the attempt to conciliation, must transmit to the president of the labor court seized, the complete file that could be compiled on this dispute.

CHAPTER II: INSTITUTION AND COMPOSITION OF LABOR COURTS

Article 300: Creation

The labor courts are created by decree taken on the proposal joint action of the Minister of Justice and the Minister of Labor.

The decree establishes for each labor court its seat, its territorial jurisdiction and its subdivision into professional sections when the structure of the labor market justifies it.

The labor courts are administratively dependent on the Justice Ministry.

In the absence of a labor court in a given jurisdiction, the common law court has jurisdiction and rules in accordance with the procedural rules provided for in this title.

Article 301: Composition

The labor court is composed of:

1°) of a presiding magistrate

2°) two assessors representing employers and two worker assessors designated by the president on the lists established in accordance with article 302 below; for each case, the president designates as much as possible, employer and worker assessors belonging to the same profession concerned

3°) a specialist in labor law attached to the president of the court, must attend the hearings, without voting rights, is appointed by order of the Minister of Labor;

4°) a clerk or an administrative agent designated by a joint order of the Minister of Justice and the Minister of Labor attached to the labor court as secretary.

The titular assessors are replaced, in the event of incapacity, by substitute assessors whose number is equal to that holders.

If one of the assessors is absent, the youngest member of the surplus category does not sit.

Article 302: Appointment of assessors

The assessors and their deputies are appointed by order of the minister responsible for labor and on the proposal of the labor director. They are chosen from the lists presented by the trade union organizations more representative or, in the event of their deficiency, by the labor inspectors, these lists contain a number of names double that of the positions to be filled.

Assessors representing employer groups and workers are appointed for a renewable two-year term. However, if the mandate of the outgoing assessors expires before the time fixed for their successors to take office, they remain in office until this time of taking office.

The assessors or their deputies provide proof of possession of their civil rights and have not suffered any of the convictions which, at term of the electoral laws in force, results in the deletion of the lists electoral.

Assessors who do not fulfill their mandate are deprived of their mandate. not all of the conditions above.

Article 303: Oath

The president, if he is not a magistrate, the assessors and their deputies take the oath before the court of the wilaya of jurisdiction following :

"I swear to fulfill my duties with zeal and integrity, and to keep the secrecy of deliberations"

However, in case of impediment, the oath can be taken in writing.

Article 304: Disciplinary sanctions against assessors

Any titular or substitute assessor who has seriously failed in his duties in the exercise of his functions will be called before the labor court to explain the facts with which he is accused. the initiative for these appeals lies with the president of the court.

The minutes of the appearance session are sent within eight days by the president of the labor court to the prosecutor of the Republic.

This report is transmitted by the public prosecutor with his opinion to the Minister of Justice.

Article 305: Free functions of assessors

The functions of titular and deputy assessors of the courts labor is free. However, subsistence and travel allowances may be allocated to assessors, the amount of which is not may be lower than the amount of salaries and allowances received which will be set by joint decree of the ministers responsible for labor, justice and finance.

Employers are required to allow employees of their company, assessors of a labor court, the time necessary to participate in sessions, investigations and meetings of the labor court under reservation of justification for their absence by them.

CHAPTER II: JURISDICTION OF LABOR COURTS

Article 306: Jurisdiction of attribution

In addition to the special cases provided for by this code or specific texts, the labor courts are competent to to know :

- actions arising from individual disputes between employers and workers under the employment contract, the apprenticeship contract, collective agreements, social security legislation and the merchant marine code in accordance with article 48 of said code;

- actions arising from individual disputes between institutions social security and employers and workers.

- actions arising from individual disputes between employers the opportunity for the application of labor and safety legislation social, in particular, in matters of worker transport, employment contract sub-enterprise and job poaching, termination business.

- actions arising from individual disputes between workers under the legislation on work accidents and occupational diseases in the event of gross negligence.

- actions relating to disputes over elections of staff representatives and members of the company or establishment consultative committee, including disputes over representativeness union linked to these elections.

- actions relating to disputes over union representation in matters of company or establishment collective agreements.

Labor courts remain competent even when a public authority or a public establishment is involved.
They can rule without there being any need for the parties to observe, in where applicable, the prior formalities which are prescribed before that proceedings be brought against these legal entities.

Article 307: Territorial jurisdiction

The competent court is that of the place of work.

However, for disputes arising from the termination of the employment contract vail and notwithstanding any clause to the contrary, the worker whose residence is located in a place other than the place of work, will have the choice between the court of this residence and that of the place of work.

CHAPTER III: PROCEDURE BEFORE THE COURTS OF WORK

SECTION I : GENERAL PROVISIONS

Article 308: Code of civil procedure

In the absence of specific provisions provided for herein code and the regulations adopted for its application, the civil procedure code is applicable to the settlement of individual disputes by the labor courts, the court of appeal and the supreme court.

Article 309: Free procedure. Legal assistance

The procedure before the labor courts, the court of appeal and the supreme court is free at all levels.

In addition, the worker automatically benefits from legal assistance. ciary for the execution of judgments rendered for his benefit.

When the judgment is enforceable, and the worker does not can obtain the amicable execution of the decision taken in its favor, he asks the president to have the enforceable formula affixed to the copy which was delivered to him and to appoint a bailiff to continue the forced execution.

Article 310: Court police - Direction of the debates

The hearing is public, except at the conciliation stage. There courtroom policing belongs to the president. This one directs the debates, questions and confronts the parties, summons the witnesses called at the discretion of the parties in the manner provided for in article 316 below.

The court may, ex officio, summon, in the same manner, any person whose testimony he considers useful to the settlement of the dispute. In urgent cases over which it judges, the court may order pro-vision, all necessary measures in particular to prevent the objects giving rise to a claim are removed, moved or damaged.

Article 311: Capacity of the married woman and the minor to act justly

The married woman is authorized to reconcile, to ask and to defend themselves before the labor court.

A minor who cannot be assisted by his father or guardian may be authorized by the labor court to conciliate, request or defend before this court.

Article 312: Challenge of assessors

Labor court assessors may be challenged:

1°) when they have a personal interest in the dispute;

2°) when they are relatives or allies of one of the parties up to the sixth degree;

3°) if in the year preceding the challenge, there was a criminal or civil trial between them and one of the parties or their spouse or direct ally;

4°) if they have given written notice of the dispute;

5°) if they are employers or workers of one of the parties in cause.

The challenge is formed before any debate; the president rules immediately. If the request is rejected, the debate is overridden; if it is admitted, the case is postponed to the next hearing where the substitute assessor(s) must sit.

Article 313: Abuse of the right to take legal action

There is abuse of the right to sue in court when it appears that the plaintiff has brought his action solely to harm the defendant by forcing him to endure the hassle of a defense.

When the court considers that a procedure is abusive on this basis, the plaintiff may be ordered to pay damages to the defendant.

Article 314: Court register - Distance period

Decrees determine the structure of the registers and the distance deadlines mentioned in this title.

SECTION II : INTRODUCTION OF THE INSTANCE ATTEMPT TO CONCILIATION

Article 315: Unity of instance

All requests arising from the employment contract between the same parts must be the subject of a single proceeding, under penalty of being declared inadmissible, unless the applicant justifies that the requests from new authorities were born for its benefit, or did not been known to him only after the institution of the proceedings primitive.

However, the new heads of requests are admissible, as long as the labor court has not ruled, first or ultimately, on the heads of the original request.

When requests from new admissible authorities in application of this article, the labor court orders the joining of the proceedings and rules on them by a single judgment.

Article 316: Referral to the labor court – Summons of the parties

The labor court is seized under the conditions provided for by section 298.

Within two days of receipt of the request, Friday and public holidays not included, the president summons the parties to appear within a period which cannot exceed twelve days plus, if there is place of the distance deadlines set under the conditions provided for in article 313 above.

The citation must contain the name and profession of the applicant, indication of the subject of the request, time and day of appearance. The summons is made to the person, at home, by means of an administrative agent specially appointed for this purpose.

It can validly be made by registered letter with acknowledgment of receipt. In case of emergency, it can be done by telegraphic.

Article 317: Appearance, assistance, representation of the parties

The parties are required to appear before the court on the appointed day and time. They can be assisted or represented either by a lawyer or by a representative of the trade union organizations to which they are affiliated. Employers may, in addition, be represented by a director or employee of the company or establishment.

Except in the case of lawyers, the agent of the parties ties must be constituted in writing and approved by the labor court.

Article 318: Failure of parties to appear

If, on the day fixed by the summons, the applicant does not appear and does not prove a case of force majeure, the case is removed from the list. It can only be repeated once according to the forms assigned to the original request, under penalty of forfeiture.

If the defendant does not appear and does not justify a case of force majeure, or if he has not presented his defenses in the form of a brief, default is given against him and the court rules on the merit of Requirement.

Article 319: Attempt at conciliation

When the parties appear before the labor court, an attempt at conciliation is made.

In the event of agreement, a report, drawn up immediately in the register of the court's deliberations, establishes the amicable settlement of the dispute.

Extract from the conciliation report signed by the president and the secretary is binding.

Article 320: Partial conciliation – Non-conciliation

In the event of partial conciliation, an extract from the minutes signed by the president and the secretary constitutes an enforceable title for the parties for whom an agreement has been reached and a report of non-conciliation for the remainder of the request made.

SECTION III: LITIGATION PHASE

Article 321: Examination of the case

In the event of non-conciliation or by the contested party of the request, the court must withdraw the case; he proceeds immediately upon its examination; no dismissal can be made unless agreed by the parties, but the court can always, by reasoned judgment, prescribe all investigations, visits to the premises and all information measures including the personal appearance of the parties as well as all findings and expertise.

However, court service agents cannot be appointed as experts by the labor court.

Article 322: Deliberate

The debates closed, the court immediately deliberates in secret, unless deliberated, which cannot exceed the date of the next hearing of the same section and, at the latest, the expiry date with a non-renewable period of two weeks. The judgment is written on time and the audience resumes for its reading; he must be motivated.

Judgments of labor courts are taken by majority relative of the members present.

Article 323: Minutes of judgments

The minutes of the judgment are signed by the president and the secretary. They are kept for ten years and linked each year at the discretion of the president.

Article 324: Provisional execution

The judgment may order immediate execution, notwithstanding opposition or appeal, and provisionally with exemption from security. up to a sum which will be fixed by decree. For the remainder, provisional execution may be ordered provided security is provided.

However, provisional execution will be able to operate without limit, notwithstanding any recourse and without payment of security when it concerns uncontested wages and recognized as being due.

SECTION IV: PATHS AND REMEDIES

Article 325: Opposition

In the event of a default judgment, notification of the judgment is made in the manner of article 315, free of charge, to the defaulting party, by the secretary of the court or by an administrative agent appointed especially for this purpose by the President.

If, within ten days after notification, the defaulter does not object to the judgment in the manner prescribed in article 299 above, the judgment is enforceable.

Upon opposition, the president reconvenes the parties as stated in article 316; the new judgment, notwithstanding everything default or appeal, is enforceable.

Article 326: Examination of requests at first or last resort

The labor court rules in first and last instance whenever the figure of the request does not exceed two hundred thousand (200,000) Ouguiyas subject to an appeal for injunction before the Supreme Court. However, if the demand figure exceeds two one hundred thousand (200,000) Ouguiyas, it rules in first instance with the possibility of appeal.

Article 327: Counterclaims

The labor court hears all counterclaims or compensation claims which, by their nature, fall within its scope.
skill. When each of the main, counter-vention or compensation claims is within the limits of its final jurisdiction, it will rule without there being any grounds for appeal.

If one of these requests is likely to be judged only at charge of appeal, the court will only rule on all call

However, it decides as a last resort if:

- only the counterclaim for damages
based on the main request exceeded its jurisdiction last
spring

- in the event of default by the defendant, only the counter-claims made by the latter
exceed the rate of its jurisdiction of last resort, whatever the nature and amount of these

requests, and provided that the defendant has not produced any
defense brief.

If a counterclaim recognized as unfounded, is
formed solely with a view to rendering the judgment subject to appeal, the author of this request
may be ordered to pay damages to the other party, even in the event that, on appeal, the
judgment in question first spring was only partially confirmed.

Article 328: Appeal

Within fifteen days of the judgment being pronounced, appeal may
be lodged in the manner provided for in article 299 above.

The appeal is transmitted within a week of the notice of appeal
to the court of appeal with a copy of the judgment and the letters,
briefs and documents filed by the parties.

The appeal is judged on the documents. However, the parties may
ask to be heard; in this case the quote and presentation
parties obey the rules set by articles 315 and 316.

The appeal order must be rendered within three months of the transmission of the
notice of appeal to the court of appeal.

Article 329: Appeal to cassation

The Supreme Court hears appeals against the
judgments rendered as a last resort in the forms and conditions
established by law for the exercise of this remedy, without the recording provided for by the
texts being required.

SETTLEMENT OF COLLECTIVE DISPUTES

CHAPTER I: GENERAL PROVISIONS

Article 330: Definition

Any dispute between several workers and one is collective.
or several employers and tending to obtain satisfaction of common demands.

Conflict is legal when its purpose is to obtain respect
an existing rule of law; it is material when it consists of claiming a new
economic or social advantage through creation
of a new rule of law or by modification or deletion
of an existing rule of law

Article 331: Settlement of collective disputes in the public sector

The provisions of this title relating to the settlement of collective
disputes only apply in services, businesses and public establishments in the
absence of legislative provisions or
contrary regulations.

Article 332: Free procedure

The procedure for resolving collective disputes is free.

Article 333: Advertising

In addition to the filing formality provided for in Article 340, conciliation agreements, unopposed recommendations, unopposed arbitral awards and judgments of the Supreme Court rendered in collective disputes are published in the journal official and transmitted to labor management where communication can be made to the public.

CHAPTER II: ATTEMPT AT CONCILIATION

Article 334: Notification of collective conflict

Any collective dispute which cannot or has not been able to be resolved within the framework of the conciliation and arbitration procedure by collective agreements must be immediately notified by the most diligent party to the local labor inspector or controller or his deputy or to the Ministry of Labor when the collective dispute extends to the emerges from several inspections, in the latter case, the director of labor designates a labor inspector with the most territorial competence.

Article 335: Summons and appearance of the parties

The labor inspector or controller summons the parties for the purposes of an attempt at conciliation within 48 hours of notification of the conflict.

The parties may be represented by agents constituted in writing who must have full powers to negotiate and conclude an agreement. Unless the mandate is revoked and notified to the conciliator, the mediation commission and the arbitration council, the agents are constituted for these three procedures and instances.

When one of the parties does not appear or is not represent, the conciliator draws up a report of this deficiency without prejudice to the civil and criminal sanctions provided for in Book III of the this code.

Article 336: Election of domicile

The parties, upon referral to the labor inspectorate or the Ministry of Labor, or upon their summons, must indicate the place where they elect domicile to receive the summons and notifications provided for in this title. Failing this, their domicile is chosen necessarily to the competent labor inspectorate or to the ministry work as the case may be. This election of domicile is obligatorily made for the attempt at conciliation, mediation and arbitration.

For this purpose, a special register is opened with the inspection of Labor and the Ministry of Labor intended for the registration of requests, summons and domiciliation of the parties as well as notification done to them.

Article 337: Mission and powers of the labor inspector

The conciliator has the broadest powers to inquire about the legal, economic and social situation of the company and the workers concerned by the collective dispute.

For this purpose, it may in particular investigate companies and unions, request from the parties all documents and information of an accounting, financial, statistical or administrative nature, likely to be useful for the examination and the solution of the dispute.

For their part, the parties may submit to the conciliator any memory, and make any observations that they deem useful to present, and are required to give every facility to the conciliator to fulfill his mission.

Article 338: Obligation of professional secrecy

The conciliator is bound by professional secrecy with regard to concerns all the information of which he can become acquainted the occasion of his mission.

Article 339: Duration of the conciliation attempt

Under no circumstances can the conciliation attempt phase be exceed thirty days from the summons of the parties. If in this period the parties have not reached an agreement, the conciliator must draw up a report of non-conciliation.

Article 340: Conciliation

In the event of total or partial conciliation between the parties, the conciliator immediately draws up a conciliation report mentioning the points on which the parties have agreed, those on which disagreement persists and which have been abandoned. The minutes are signed by the parties and by the conciliator.

The conciliation agreement is binding and enforceable from the day it is concluded unless otherwise agreed by the parties to defer or retroactively its effect. It is filed at the secretariat of the labor court at the labor inspection headquarters or, in the event of a conflict extending to several jurisdictions, at the Nouakchott labor court.

It can be extended under the same conditions as a collective agreement capable of extension.

Article 341: Non-conciliation

In the event of total or partial non-conciliation or failure of one of the parties, the conciliator draws up a reasoned report on the status of the dispute, specifying the points on which the disagreement persists, to which all useful documents and information are annexed.

The report of deficiency or non-conciliation or partial conciliation as well as the conciliator's report are immediately transmitted to the labor director.

The report of deficiency or total non-conciliation or partial is notified to the parties at their chosen address.

CHAPTER III: MEDIATION

Article 342: Referral to the mediation commission - Summons of the parties

The labor director must, within fifteen days following the date of the report of deficiency or total or partial non-conciliation, refer the matter to the mediation commission and summon the parties and the members of said commission for the date, the place and time fixed by him.

The summons of the parties is made under the conditions pre-seen in article 335.

Article 343: Composition of the mediation commission

The mediation commission is composed of:

- the Director of Labor or his representative, president;

- the Wali of the wilaya, or his representative, in whose jurisdiction the conflict arose;

- a representative of the employer and worker designated by the Minister of Labor.

The designation of members representing employers and workers is made by simple letter from the Minister of Labor from a list of names drawn up each year, by order of the Minister of Labor, on the proposal of the most representative organizations.

Article 344: Appearance and representation of the parties

The parties are required to appear or be represented feel under the conditions provided for in paragraph 335.

If on the day set for the meeting of the mediation commission, one of the parties does not appear or refuses to appear or does not

is not represented or refuses to be represented, the commission establishes a deficiency report in the same forms and under the same sanctions as those provided for in article 335.

Article 345: Mission and powers of the mediation commission

The mediation commission can only hear points mentioned in the conciliator's minutes on which the disagreement persists and all those which, resulting from events subsequent to the minutes, are the direct consequence of the dispute in course.

The commission has the same powers as the conciliator.

It can use the services of experts and, generally, any person qualified to provide him with information and explanations.

It can also rule on documents, if it considers itself sufficiently informed of the case.

The members of the commission are bound by professional secrecy under the same conditions as the conciliator.

The parties may submit to the commission all briefs and documents, and make any observations they deem useful in advance. feel.

Article 346: Duration of mediation

In no case may the mediation phase exceed one hundred twenty days from the date of receipt by the labor director of the report of deficiency or total or partial non-conciliation drawn up by the conciliator.

If, after the above-mentioned period, no report has been drawn up mediation or failure thereof, the president of the commission must transmit the file immediately to the Minister of Labor.

Article 347: Minutes of the mediation commission

At the end of its work, the mediation commission establishes a report must include two parts:

1°) a report of total or partial conciliation or non-conciliation with detailed indication;

- the points on which the parties have agreed and possibly the terms of this agreement;

- points on which disagreement persists;

- points which have been abandoned;

2°) a report containing a recommendation from the commission specifying the proposals made to the parties to end the dispute.

The conciliation or non-conciliation report is signed by the parties or their representatives and by the president of the mediation commission. It takes effect, must be filed and can be extended under the same conditions as those provided for by article 340.

The recommendation is made by a majority of the members making up the commission. The minutes of the commission are signed by the members of the commission.

Article 348: Notification of the recommendation report

The recommendation report is notified to the parties immediately after its establishment, at the addresses elected by them. If they refuse to receive notification or acknowledge receipt, this is mentioned in the register provided for by article 336 and notification is deemed to have been made.

Article 349: Opposition

Within four working days following notification of the recommendation report, the parties may file an opposition to the recommendation, either by registering their opposition in the register

provided for in article 336, either in the hands of the local labor inspector, or by serving it, with discharge, to the president of the mediation commission. In the latter case, mention of the opposition is made in the register provided for by article 336.

If no opposition is made within the period of four working days, the recommendation takes effect, must be filed and may be extended under the conditions provided for in article 340.

In the event of opposition to the recommendation within four working days, the file is immediately transmitted to the Minister of Labor who may decide to resort to arbitration.

CHAPTER IV: ARBITRATION

Article 350: Ministerial decision to resort to arbitration

The Minister of Labor may decide to submit the collective dispute to the arbitration procedure, at any opportunity, taking into account, in particular, the circumstances and repercussions of the conflict if he considers that the strike or lockout is detrimental to the public order or contrary to the general interest.

The Minister of Labor notifies the parties of his decision within fourteen days of receipt of the file. He directly refers the matter to the arbitration council to which he transmits any file concerning the dispute. Mention of these notifications and this referral is made in the register provided for in article 336.

Article 351: Composition of the arbitration council

Arbitration is entrusted to an arbitration council composed as follows:

1°) the president of the labor court or, failing that, the president of the wilaya court, president of the arbitration council;

2°) a magistrate designated by the Minister of Justice, vice-president;

3°) a labor inspector or controller or, a labor administration official who has not experienced conciliation or mediation, designated by the Minister of Labor;

4°) a worker assessor designated under the same conditions than those provided for assessors at the labor court;

5°) an assessor representing the employer designated under the same conditions as those provided for assessors before the labor court.

Article 352: Mission of the arbitration council

The arbitration council is only seized of and can rule on the points of the dispute mentioned in the report of total or partial non-conciliation and on those which, resulting from events subsequent to the report, are the direct consequence of the dispute.

Article 353: Appearance and representation of the parties

The parties are not required to appear or to be represent before the arbitration council. But at their request or that of the arbitration council, they can be heard before this jurisdiction.

They can also appear there and be represented there, file briefs and form observations in accordance with the articles 334 and 335.

Article 354: Powers of the arbitration council

The arbitration council has the same powers as those recognized by the mediation commission by article 345.

He can also rule on documents.

It rules in law on points relating to the application and interpretation of laws, regulations and collective agreements in force;

It rules in fairness on other points, in particular on salaries and salary accessories as well as on working conditions.
when these have not been fixed by legal, regulatory or conventional provisions.

The arbitration council's award must be reasoned. She must be returned within the following seventy days:

- the expiration of the period of ninety days provided for in article 345 without any minutes of conciliation or non-conciliation and recommendation being drawn up;

- the opposition made by one of the parties to the recommendation formulated by the mediation commission.

The secretariat of the arbitration council is held by the secretariat of the labor court or failing that, by the registry of the wilaya court.

Article 355: Notification and remedies

The arbitral award shall be notified immediately to the parties at their elected addresses.

It is final. It is subject to an appeal for cassation before the Supreme Court in the forms and conditions provided for by law for the exercise of such an appeal, with the exception of the time limit for the appeal to cassation which is fifteen clear days from the notification and the consignment from which the parties are exempt.

The Supreme Court receives communication of the entire file.

It can only rule in law.

It must rule within sixty days following the introduction of the appeal to cassation.

Article 356: Enforceability of arbitral awards

The arbitral award not subject to an appeal in cassation and the judgment of the Supreme Court are enforceable.

In the absence of execution by the parties, they may be constrained by all legal means.

The arbitral award which has become final and irrevocable must be filed and may be extended under the conditions provided for in article 340.

The judgment of the Supreme Court may be extended under the conditions provided for in article 340.

CHAPTER V: STRIKE AND LOCKOUT

SECTION I : STRIKE

Article 357: Definition

The general or partial strike is a concerted and collective stoppage of work by employees of one or more companies to obtain satisfaction of professional demands, in accordance with the current regulations.

All employees have the right to strike subject to exercise it according to the legislation and regulations in force.

Article 358: Notice of strike

A strike is only lawful if preceded by prior notice. lasting ten working days.

Under penalty of nullity, the notice must:

- be notified in writing to the management of the company or establishment or to professional employers' unions or unions employer unions depending on whether the strike concerns a company, a establishment, profession or branch of activity considered.

- come from representatives of the company's staff or the establishment of one or more unions or trade union organizations of workers, as the case may be.

Article 359: Obligations of strikers

Under no circumstances may the exercise of the right to strike be accompanied by the occupation of workplaces or their immediate surroundings, the sequestration of people or the prohibition by the force or threat of access to workplaces by non-strikers under penalty of criminal sanctions decreed by Book VIII of the present coded.

Article 360: Requisition

The competent administrative authority may, at any time, carry out the requisition of workers from private companies, services, companies or public establishments which occupy jobs essential to the safety of people and property, maintenance of public order, the continuity of public services or the satisfaction of the essential needs of the nation.

The list of jobs thus defined is fixed by decree.

The competent authority will regulate the conditions and modalities of requisition of workers occupying the jobs appearing on the list provided for in the preceding paragraph. It will specify the cases in which notification of the requisition, in principle made to the person by order of service signed by the employer or his representative or the authority competent administrative authority, may nevertheless result from publication in the official journal, radio broadcasting or anonymously workers occupying all or part of the jobs listed in the list previously established by decree.

Article 361: Effects of lawful strike

A lawful strike legitimately suspends the employment contract of strikers, whatever the duration, subject to workers who are responsible for ensuring the maintenance of production devices, maintaining the safety and hygiene measures of the obligation to pursue them at the express request of the employer or boss business.

However, if a worker, during the strike, even if lawful, violates the obligations, prohibitions and requisitions provided for by articles 359 and 360, he commits serious misconduct justifying his dismissal and the deprivation of notice pay, severance pay and damages.

The strike does not suspend the mandate of staff delegates and members of the company or establishment consultative committee and of any staff representative established by the conventions. collective.

Article 362: Unlawful strike

A strike is unlawful when it occurs without cause or for reasons non-professional claims.

It is also illicit if it intervenes for demands professional positions;

- without being preceded by the notice provided for in article 358;

- after the completion of the conciliation procedure materialized by the delivery to the parties of the non-conciliation report total or partial (see art.334);

- after the parties have been summoned by the president of the mediation commission and before the end of the mediation phase by a report from the mediation commission or by the expiration of the period provided for by article 346 under the conditions set by this text.

- after notification of the decision of the Minister of Labor resort to arbitration under the conditions set by article 350;

- after the arbitration award rendered by the arbitration council.

Article 363: Effects of the illegal strike

The participation of a worker in an illegal strike constitutes serious misconduct justifying his dismissal and deprivation of his employment. notice pay, severance pay and damages.

SECTION II: LOCK-OUT

Article 364: Definition

Lockout is the closure of all or part of a business
or an establishment decided by the employer during a collective dispute.

Lockout is prohibited. It is only lawful:

- if the strike consists of a different form of collective work stoppage such as, in particular, the closed strike, the rotating strike, poor workmanship, the work-to-rule strike.

- if the strike makes it completely impossible for him to provide work to non-strikers;

- to restore, before resuming work following the end of a
strike, minimum working conditions, health and safety.

Article 365: Effects of lawful lockout

The lawful lockout suspends the employment contract of those not on strike.
you without any remuneration, whatever the duration.

Article 366: Effects of unlawful lockout

The unlawful lockout results in

- maintaining the suspension of the contract of voluntary workers
visits due to the strike;

- the obligation to pay remuneration for lost working days to non-striking workers as if they had been
worked;

- the ineligibility of the employer or business manager pronounced by judgment of the court of the wilaya at the request of the Minister of work, to the functions of member of a chamber of commerce, of a advisory body for labor and social security provided for by this code, the mediation commission and the arbitration council, assessor at the labor court.

- the ban on participating, in any form whatsoever, in a works company or a supply contract on behalf of the State or a public authority.

ADMINISTRATIVE ORGANIZATION OF WORK AND MEANS OF CONTROL

ADMINISTRATIVE ORGANIZATION OF WORK

SINGLE CHAPTER: LABOR ADMINISTRATION

Article 367: General attributions

The labor administration is responsible, under the authority of the Minister of Labor, for ensuring, in the field of work, employment, professional training and social security, a role of design and advice and, on the other hand, a role of impetus, of coordination and control.

Its reasons include:

- to develop, within the framework of ministerial directives, draft laws and regulations in the areas of work and employment, professional training in social security;

- to ensure the application of laws and regulations covering work, employment, professional training and social security;

- to inform, enlighten and advise employers and workers;

- to document, advise, coordinate and control the services and organizations contributing to the application of social legislation;

- to carry out, in collaboration with the authorities and organizations interested, the best possible organization of the employment market,

as an integral part of the national program tending to ensure and maintain full employment, as well as to develop and fully utilize productive resources;

- collect and update statistical data relating to employment and working conditions and pension operations.

- to establish each year, an overall report on the activity of the various services contributing to the application of social legislation;

- to monitor relations with other states and international organizations with regard to questions of work, employment, promotion and social welfare.

Article 368: Organization and operation

The terms of organization and operation of labor services are set by decree.

MEANS AND CONTROL MEASURES

CHAPTER I: LABOR INSPECTION

Article 369: Mission of labor inspectors and controllers

Labor inspectors and controllers are responsible for
monitor the application of legislation, labor regulations and collective agreements applicable to workers as well as
to provide information, explanations and technical advice to employers and workers on the most effective ways of complying with legal and other provisions.

They are also responsible for bringing to the attention of the authority competent authority for deficiencies and abuses which are not specifically covered by existing legal and other provisions.

If other functions are entrusted to labor inspectors and controllers, these must not obstruct the exercise of
their main functions, nor prejudice in any way the authority or impartiality necessary for inspectors in
their relations with employers and workers.

Labor inspectors are required to submit to the authority central inspection station periodically reports of a general nature on the results of their activities.

The responsibilities of labor inspectors and controllers as well as the organization and operating conditions of the inspection sections are set by order of the Minister responsible for labor.

Article 370: Status of labor inspectors and controllers

The status of labor inspectors and controllers, established by decree taken by the Council of Ministers, provides these civil servants with the necessary legal, material and moral guarantees in order to preserve their impartiality and independence from all external influences.

Labor inspectors and controllers cannot have any direct or indirect interest in the companies placed under their control.

Article 371: Oath - Professional secrecy

Labor inspectors and controllers take an oath to fulfill their duties well and faithfully and not to reveal, even after leaving their service, manufacturing secrets and, in general, operating processes of which they may become aware. performance in the exercise of their functions.

This oath is taken before the court of appeal. it can be lent in writing when the interested party does not reside at the seat of the court of appeal. Any violation of this oath is punishable in accordance with criminal law.

Article 372: Confidentiality of complaints

Labor inspectors and controllers must keep as confidential any complaint notifying them of a defect in an installation or an infringement of legal or regulatory provisions and must refrain from revealing to the employer or his representative that an inspection has been carried out. a visit following a complaint.

Article 373: Reporting of offenses

Labor inspectors and controllers may note, by official report until proven otherwise, violations of the provisions of labor and social security legislation and regulations. They are authorized to refer matters directly to the competent judicial authorities.

No special form is imposed on the minutes of labor inspectors and controllers. In the detection of violations of labor and safety legislation and regulations

social, labor inspectors and controllers have the same prerogatives of judicial police officers.

Article 374: Notification of the offense report

Any infraction report must be notified by delivery a certified copy to the interested party or their representative. On pain of nullity of the proceedings to be taken, this surrender must be carried out within one month of the infringement being noted, either by registered letter with acknowledgment of receipt, the date of the receipt issued by post then serving as the date of notification, or by any other means allowing a certain date to be given to the notification made.

A copy of the report is filed with the public prosecutor's office, a second sent to the labor director for classification, a third is archived with the labor inspectorate.

The labor inspector or controller is kept informed by the judicial authority of the follow-up reserved to the minutes.

Article 375: Assistance to labor inspectors and controllers.

All civil and military authorities must recognize the labor inspectors and controllers in their capacity, upon presentation of the professional card and lend them upon their request, help and assistance in the exercise of their functions.

Article 376: Powers of labor inspectors and controllers

1°) power of visit

Labor inspectors and controllers provided with supporting documents of their functions may enter freely, without prior warning, at any time of the day or night, into establishments subject to labor inspection control. They can also enter premises during the day that they may have a reason for reasonable to assume that they are subject to inspection control by the work.

During their visits, they must inform the employer or his representative of their presence, unless they consider that a opinion risks harming the effectiveness of the control.

Heads of companies and establishments are required to take all measures to ensure that free access to establishments is ensured by the labor inspector or controller, in any event and, immediately, even if the visit is unannounced and even in the event of their absence.

The company manager or his representative may accompany the labor inspector or controller during his visit if the latter so requests. The latter may be accompanied, during his visit, by an official interpreter and representatives of the staff of the company visited, as well as the doctors referred to in 2° below.

The persons who accompany the inspectors or controllers are required under the same conditions and the sanctions provided for in article 372, not to reveal manufacturing secrets of which they may become aware in the exercise of their functions.

2°) Power of requisition

Labor inspectors and controllers may request, if necessary, the opinions and consultations of doctors and technicians.
The latter are bound by professional secrecy under the conditions and sanctions provided for in article 372.

3°) Power of examination, control and investigation

Labor inspectors and controllers may carry out all examinations, controls and investigations deemed necessary to ensure that the applicable provisions are effectively observed and in particular:

a) question the employer or company staff with or without witnesses; check their identity, request information from any other person whose testimony may seem necessary;

b) require the head of the establishment to produce any register or document required to be kept;

c) take and take away, for analysis purposes, in the presence of the business manager or his representative and against receipt, samples of the materials and substances used or handled. The costs resulting from these requisitions, expertises and investigations are borne by the state budget.

4°) Power to take or have measures taken

Labor inspectors and controllers are authorized to take measures intended to eliminate defects noted in an installation, layout or working methods which they may have valid reason to consider as a threat to the health or safety of workers. To this end, the Labor inspectors and controllers have the right to refer the matter to the competent administrative or judicial authorities to order:

a) that the installations are brought to the facilities, within a fixed period, modifications which are necessary to ensure the strict application of the legal and regulatory provisions concerning the health or safety of workers;

(b) immediately enforceable measures are taken in the event of imminent danger to the health or safety of workers.

Article 377: Professional card

Labor inspectors and controllers will be responsible a professional service card issued by the minister responsible work establishing their identity and justifying their status as agents sworn officers and their functions.

Article 378: Technical control in mines, mining and quarries

In mines, mining and quarries as well as in establishments and construction sites where the work is subject to the control of a technical service, the officials responsible for this control ensure that that the installations falling under their technical control are designed to guarantee the safety of workers.

They ensure the application of special regulations which may be taken in this area and have for this purpose, within this limit, of the powers of labor inspectors, and they bring to the attention of the labor inspector or controller of the relevant measures that they have prescribed and, where applicable, the formal notices which are signified.

The labor inspector or controller may, at any time, request to carry out, with the officials referred to in the preceding paragraph, a visit to the mines, quarries, establishments and sites subject to technical control.

Article 379: Control of the application of the merchant marine code

For monitoring the application of the provisions of the Merchant Marine Code, the role assigned to labor inspectors and controllers is entrusted to the agents representing the maritime authority provided for in the Merchant Marine Code.

Article 380: Control of military establishments

In establishments or parts of military establishments employing civilian labor, in which the interest of defense is opposed to the introduction of foreign agents into the service, the application of the provisions relating to work and social security is ensured by civil servants or officers designated for this purpose.
This designation is made jointly by the minister responsible for defense and the minister responsible for labor.

Article 381: Prerogatives

The provisions of articles 376 to 381 do not affect the prerogatives of judicial police officers with regard to the detection and prosecution of offenses under common law.

CHAPTER II: MEDICAL INSPECTION OF WORK

Article 382: Labor inspectors

Labor inspector doctors are appointed to the labor inspection services. They are responsible for all questions
relating to labor inspection on a medical level, and take the
title of medical labor inspectors.

Their attributions, the conditions of their appointment and their remuneration are determined by decree taken by the council of ministers. Approved doctors can assist the medical inspector of the
work in his mission. They are mandated under fixed conditions
by order of the minister responsible for labor.

Article 383: Mission of medical labor inspectors

The mission of medical labor inspectors, in coordination with labor inspectors and controllers and, under the authority of the labor department, is to:

1°) to ensure the application of legislation relating to hygiene
of work and the protection of workers' health;

2°) to ensure, in close coordination with psychotechnical services or organizations, the medical examination of workers, with a view to
their professional orientation, their classification, and possibly their rehabilitation;

3°) to carry out all investigations intended to bring out the
measures to be taken to improve the protection of the health of workers in their work environment;

4°) to ensure the preparation of a physiopathological file of
Workforce ;

5°) to control occupational medical services;

6°) to control the care given to victims of road accidents
work and occupational diseases.

With a view to preventing occupational diseases,
Labor inspectors are authorized to examine workers and to take, for analysis purposes, any samples relating in particular to the materials used and the products used.

Article 384: Prerogatives of medical labor inspectors

The provisions relating to the prerogatives vested in labor inspectors and controllers are extended to medical inspectors
of work, who will be sworn in under the same conditions and
in the same way as the first.

CHAPTER III: CONTROL MEASURES

Article 385: Declaration of hiring and workforce situation

Any person who intends to employ personnel of any size, in a company or in an establishment, must first make a declaration to the local labor inspectorate.

Must be declared under the same conditions, the firmness
re, transfer, mutation, change of destination and, more generally, any modification affecting the company or establishment.

Heads of establishments must periodically produce a declaration of the situation of the workforce they employ.

Orders from the Minister responsible for Labor establish the terms of application of the provisions of this article.

Article 386: Register of employers

The employer must constantly keep up to date at the place of operation, and in each establishment, a register known as the “Employer register”.

This register is intended to receive:

- information concerning people and contracts
workers and apprentices employed in the establishment;

- information concerning the work carried out, salaries and
leave;

- visas, formal notices and observations from labor inspection and social security agents, and all indications relating to health and safety conditions.

An order from the Minister responsible for Labor may set out in detail the practical arrangements concerning the keeping and content of this register, adapting it to the nature and size of the companies.

EMPLOYMENT - VOCATIONAL TRAINING - APPRENTICESHIP AND ADVISORY BODIES

It is established within the labor administration of employment and vocational training services responsible, under the authority of the Minister responsible for labor, to achieve, in collaboration with the authorities concerned, the best possible organization of the labor market. employment and vocational training.

JOB

CHAPTER I: EMPLOYMENT SERVICE

Article 387: Access to employment system

Access to employment is free within the framework of the provisions of this code and the hiring monopoly exercised by the employment service is abolished. However, the employment market is subject to regulations enacted by decree, and intended to protect job candidates, and to ensure transparency and fairness in access to employment.

In this context, the State may be required to create, in liaison with the social partners, an agency or any other institution responsible for promoting access to employment and placement. Likewise, the State may authorize by decree the opening of approved private employment offices within the framework of a regulated professional status and previously defined by decree.

Article 388: Conditions of employment of foreign labor

Any foreigner who wishes to occupy a salaried job of any kind on Mauritanian territory must first obtain a work permit, the nature and conditions of granting of which are fixed by a decree taken after consultation with the National Council of the work, employment and social security.

Article 389: Role of employment services

The employment services are responsible in particular for:

a) to collect, process, analyze, present, and disseminate all statistical and non-statistical information relating to employment;

b) to analyze the job market, quantitatively and qualitatively and from the angle of the imbalances which may affect it in terms of gender, generations, qualifications, territorial distribution, etc.

c) to formulate any proposal, in relation with the social partners, concerning the regulation of the employment market and in particular, the protection of candidates for employment and respect for transparency and fairness the job market;

d) to conduct any analysis and reflection work affecting the employment strategy or policy and to formulate, as necessary, all the elements of the action program which contribute to it;

e) to encourage all initiatives, public or private, for the promotion of and access to employment and to ensure the defense of employment through economic action programs defined or undertaken by the public authorities;

f) to undertake any study and propose any action aimed at ensuring a better match between training and employment conditions in the different sectors of the economy;

g) to monitor the action taken in favor of employment, especially through public programs and report on them.

CHAPTER II: REGULATION OF JOB CUMULATION

Article 390: Multiple jobs prohibited during annual paid leave

Any worker is prohibited from carrying out, during his annual paid leave, split or not, from paid work for the account of his employer or another employer. The worker who Violating this ban is subject to criminal sanctions.

The employer who has occupied, with full knowledge of cause, a worker during the enjoyment of annual paid leave will be punished criminally.

Article 391: Multiple jobs prohibited during the enjoyment of the retirement

Any worker who actually enjoys a pension or retirement allowance to carry out paid work on behalf of any employer.

In the event of a violation of this ban, the pension service or retirement allowance is suspended for the entire duration of the employment contract and the pensions or retirement allowances previously paid during accumulation will be repaid to the retirement provision.

Article 392: Multiple jobs prohibited beyond the maximum legal weekly duration

No worker may carry out, for his employer or any other employer, paid work beyond the duration weekly work schedule, including overtime, such as that they result from the provisions of this code and the ministerial decrees taken for their applications.

The worker and the employer who violate this prohibition are criminally sanctioned.

Article 393: Multiple authorized jobs

The following are excluded from the prohibitions imposed by articles 390 to 392:

1°).paid work of a scientific, literary, artistic nature and assistance provided to works of general interest, in particular teaching, education and charity.

2°) work carried out for its own account or free of charge;

3°) extremely urgent work whose immediate execution is necessary to prevent imminent danger or to organize rescue measures.

4°) part-time work carried out for several employers for hours shorter than the legal duration without the cumulative number of working hours being greater than the legal weekly duration, including overtime, as they result of the provisions of this code and those taken for their applications.

Decrees may establish, if necessary, other exemptions from the prohibitions on multiple employment decreed by articles 390 to 392.

Article 394: Determination by decree of the mission of employment services

Decrees taken in the council of ministers after advice of the council National Labor, Employment and Social Security:

- set general employment rules and possibly prohibitions, limitations and employment priorities concerning certain categories of workers within the framework of a policy of full employment and promotion;

- Create specialized advisory commissions to study the problems of employment and professional training;

Article 395: Principle of non-discrimination

The regulatory provisions taken pursuant to article precedent, must ensure equal access to employment for all.

They oppose any discrimination, distinction, exclusion or preference based on race, national origin, color, sex, religion, political opinions or social origin.

PROFESSIONAL TRAINING AND APPRENTICESHIP

CHAPTER I: PROFESSIONAL TRAINING

Article 396: Role of professional training services

Vocational training services are responsible notably :

a) to put in place a professional training policy-consistent with employment policy;

b) to help create professional training centers and put in place all the necessary means of social promotion in accordance with government directives

(c) to help develop professional training and re-education courses and establish programs;

CHAPTER II: LEARNING

Article 397: Application of common law - Implementation decree

Subject to the special provisions provided for herein
chapter or exception expressly appearing in the laws and regulations, all legislative
or regulatory measures of common law applicable to workers apply to apprentices.

Decrees, taken after advice of the National Labor Council,
employment and social security determine the categories of companies in which a
percentage of apprentices is imposed per
in relation to the total number of workers.

Article 398: Inability to receive apprentices

No one may receive apprentices:

- if he is not at least twenty-one years old;

- if he has been convicted, either for a crime or for any misdemeanor
whether it is, to an unsuspended prison sentence of three months.

Article 399: Content of the contract

The apprenticeship contract is established in accordance with the
practices and customs of the profession. Orders from the Minister of Labor
can determine a standard apprenticeship contract that must be used.

It contains, in particular:

- the surname, first name, age, profession and domicile of the master;

- the name, first name, age and domicile of the apprentice;

- the surnames, first names, profession, age, and domicile of the father and
mother of the apprentice or his guardian or the person authorized by
the parents or by the court competent to represent him;

- indication of the profession which will be taught to the apprentice;

- the date and duration of the contract, these fixed in accordance with the customs of the profession, may not exceed four years;

- possibly, the indication of the professional courses that the company manager undertakes to have the apprentice follow, either within the company or outside;

- the conditions of remuneration, food and accommodation and any other services agreed between the parties;

- the reminder of the obligatory three-month trial clause.

Article 400: Form of contract

The apprenticeship contract must be written. It is exempt from all stamp and registration duties. The contract is established by private deed. It is drawn up in at least five copies.

An order from the Minister of Labor can determine a contract type of learning that should be used.

It must be annexed to the contract:

- an extract of birth certificate or an extract of supplementary judgment of birth certificate.

- a medical certificate attesting that the apprentice is physically capable of meeting the obligations relating to the nature and place of work stipulated in the contract.

The contract is signed by the master and the parents or guardians of the apprentice if he is a minor, by the apprentice if he is an adult.

If the master, parents, guardian or their representative or the apprentice are unable to sign, mention of their agreement is certified in the contract on the basis of two witnesses who affix their signature in the presence of the 'work inspector.

Article 401: Visa of the labor inspector

The apprenticeship contract is subject to approval by the labor inspector or his representative.

The labor inspector approves the contract after having:

1°) verified that it complies with legislative and regulatory provisions;

2°) verified the proofs provided by the master that he is not prevented from contracting under the provisions of this
Chapter;

3°) reminded the parties of the reciprocal obligations incumbent upon them.

After approval, the labor inspector gives a copy to each of the parties, files a copy with the secretary of the competent labor court, this deposit giving a certain date to the contract and transmits a copy to the labor office. work which issues the apprentice an apprenticeship card.

The master registers the apprenticeship contract in his employer register.

SECTION I : LEGAL REGIME OF THE APPRENTICESHIP CONTRACT

Article 402: Trial period

The first three months of execution of the apprenticeship contract are considered as a trial period during which each party can terminate the contract without having to pay the other party any compensation, under the sole obligation to notify the other party who has referred to the contract.

Article 403: Prohibition on concluding a new apprenticeship contract before the expiration of the previous one

Any new apprenticeship contract concluded without the previous contract having been executed in all its obligations or without it has been validly resolved, is automatically void.

Article 404: Compensation for the teacher or vocational training center

Hiring, as workers or employees, young people bound by an apprenticeship contract, students or trainees enrolled in schools or vocational training centers, is liable to compensation for the benefit of the natural person or morality who previously had the responsibility for their training.

In the case where, for certain techniques or professions, learning represents a waste of time and money for the master taking into account in particular the value of raw materials employed or the particular wear and tear of the tools resulting from the initiation to the working methods, it may be provided in the contract that the apprentice will pay a fee to the master. This fee must be specified in the contract. It may be modified by agreement of the parties during execution of the contract.

Article 405: Remuneration of the apprentice

In the event that the apprentice is employed only in the work required by his training and only for the time necessary for this training, there is no need to pay the apprentice.

In the case where the master makes a profit from the apprentice's work such that it exceeds the reasonable assessment of the care and constraints arising from apprenticeship, there is reason to pay the apprentice.

This remuneration which takes into account, on the one hand, the advantages that the apprentice derives from teaching the trade and, on the other hand, care and constraints that this teaching represents for the teacher, may be lower than the minimum wage rate.

Labor inspectors have the broadest power of recommendation when it comes to setting the apprentice's remuneration.

Article 406: Engagement of the apprentice after training

It may be provided in the contract that the apprentice undertakes, after completion of the apprenticeship, to carry out a professional activity on behalf of his former master for a period which
cannot exceed two years, failing which the apprentice will be required to pay as a penalty a sum which will be fixed in consideration of the damage which may result for the master.

The commitment just mentioned cannot, however,
increase the total duration of the stipulated commitment to more than four years to the apprenticeship contract.

Article 407: Obligations of the master

The master must treat the apprentice like a good father.

He must, in particular, notify without delay the parents of the apprentice or their representatives in the event of illness or absence and notify them any fact likely to motivate their intervention.

He must teach the apprentice in a methodical, progressive and complete manner the art, trade or profession covered by the contract.

He must only employ the apprentice, to the extent of his strength, as to works and services which are related to the exercise of art, trade or profession taught.

If the apprentice does not know how to read, write and count, or if he has not yet completed his first religious education, the master is required to grant the time and freedom necessary for his instruction. This time will be allocated to the apprentice according to an agreement between the parties, but it cannot exceed two hours per day.

Whenever, as part of the organization of professional education, professional courses are organized for apprentices in the art, trade or profession provided for in the contract, the master will give the apprentice the time and freedom to follow them. He will monitor his attendance at these courses.

The master, if he does not live in a family or in a community, cannot house minor girls as apprentices.

Article 408: Obligations of the apprentice

The apprentice must, to the extent of his abilities and strengths, help the master with his work.

He will show him loyalty, obedience and respect.

It is required, at the end of the apprenticeship and at the request of the master, to replace the time of work that he was unable to complete as a result of illness or absence lasting more than fifteen days.

SECTION II : END OF APPRENTICESHIP CONTRACT.

Article 409: Certificate of professional aptitude

The apprentice whose apprenticeship period has ended takes an exam before the body designated by order of the minister responsible for technical education. The professional aptitude certificate is issued to the apprentice who has successfully passed the examination.

At the end of the apprenticeship, the master issues a leave of absence or a certificate confirming the execution of the contract.

Article 410: Termination of the apprenticeship contract

The apprenticeship contract can only end upon expiry of the duration provided for in the contract or by agreement of the parties or by judicial decision.

Any unilateral termination of the contract gives rise to the payment of compensation, the amount of which must be provided for in the contract or expressly left to the discretion of the court.

Article 411: Automatic termination

The apprenticeship contract is terminated automatically and without compensation:

- by the death of the apprentice or master;

- when the master or apprentice is subject to one of the sentences provided for in article 398 above;

- if the apprentice or master is called up for military service;

- for young female apprentices, in the case of divorce of the master or the death of the master's wife or any other woman in her family who managed the house at the time of the contract.

Article 412: Termination at the request of one of the parties

The apprenticeship contract may be terminated at the request of the parties or one of them:

1°) in the event that one or the other of the parties fails to comply with the stipulations of the contract;

2°) due to serious or habitual infringement of the requirements of this chapter and other laws and regulations relating to the working conditions of apprentices;

3°) in the case of habitual misconduct on the part of the apprentice;

4°) the master moves his residence out of the administrative unit where he lived when signing the contract; nevertheless, the request for termination of the contract based on this last reason is only admissible for three months, from the day on which the master changes residence;

5°) in the case where the master or apprentice incurs a conviction involving imprisonment of more than one month;

6°) in the event that the apprentice enters into marriage, or if he became head of the family following the death of his father.

Article 413: Jurisdiction of the labor court

Actions for termination of the apprenticeship contract are brought before the labor courts, which may settle any compensation or restitution that may be due to one or other of the parties.

SECTION III: CONTROL OF THE EXECUTION OF THE APPLICATION CONTRACT PRINTING

Article 414: Control of the labor inspector

The labor inspector is responsible for monitoring the execution apprenticeship contracts.

It ensures the control of the application to apprentices of the provisions provisions referred to in article 406.

He controls the professional training of apprentices and can, when this training is insufficient, propose to the Minister of Labor limiting the number of apprentices in the establishment or even the suspension of the right for the head of the establishment to train apprentices.

Article 415: Suspension of the right to provide professional training

Orders from the Minister of Labor may limit the number of apprentices or suspend the right to train apprentices in companies in which manifestly insufficient professional training has been established.

ADVISORY BODIES

CHAPTER I : NATIONAL COUNCIL OF LABOR, EMPLOYMENT AND SOCIAL SECURITY

Article 416: Institution and role of the national labor, employment and social security council

A national labor, employment and social security council is established under the Minister responsible for labor.

This consultative body has the general mission of studying problems concerning work, vocational training, employment and social security.

All bills relating to these problems must be accompanied by the opinion of the National Council for Labor, Employment and Social Security.

It is responsible for studying the elements that can serve as a basis for determining the minimum wage, such as, in particular, the subsistence minimum, general economic and social conditions.

It may request from the competent administrations, through its president, any documents or information useful to the accomplishment of its mission.

The council can formulate and address wishes to the minister char-management of labor in all matters falling within its competence.

Article 417: Composition

The National Council for Labour, Employment and Safety social is chaired by the minister responsible for labor or by his representative. feeling.

He understands :

1°) a representative of the national assembly;

2°) a representative of the Senate;

3°) the labor director;

4°) the Director of Employment;

5°) the Director of Professional Training;

6°) the Director General of the National Security Fund Social;

7°) four representatives of trade union organizations representing employers;

8°) four representatives of trade union organizations representing feelings of workers.

Experts in the issues of work, employment, professional training and social security may be designated by order of the Minister responsible for labor with a view to participating in work of the council without deliberative voice.

Article 418: Appointment of council members

The National Assembly and the Senate each designate a full member and one substitute member.

An order from the Minister responsible for Labor designates on proposal of the most representative trade union organizations:

- four full employer representatives and four alternates;

- four full worker representatives and four substitutes.

Substitute members replace full members in the event of their incapacity or resignation.

Proposals from trade union organizations must include a number of candidates at least equal to twice the positions to be filled.

Full and substitute members of the National Labor, Employment and Social Security Council must be at least twenty-five years old and enjoy their civil and political rights.

Article 419: Duration of mandate-vacancy of a seat-cessation of councilor functions

The term of office of members of the National Council for Labor, Employment and Social Security is two years. It is renewable without limitation.

The resignation of a member of the organization he represents entails the termination of his functions within the council.

When a vacancy occurs on the board, the alternate member replaces the incumbent. His term of office ends on the date on which that of the replaced full member expires.

Article 420: Protection of the mandate of council members

The employer of a member of the National Labor, Employment and Social Security Council is required to allow him the necessary time to attend council meetings.

He can only dismiss him under the conditions provided for for the dismissal of staff representatives.

Article 421: Convocation and meeting

The national council for labor, employment and social security meets at the invitation of the minister responsible for labor or, by delegation, at the invitation of the secretary general.

The convocation specifies the agenda and is accompanied by documentation relating to the issues on the agenda.

The council may be convened at the request of two thirds of its members. full members addressed to the minister responsible for labor.

It must be met, at least, once per semester.

The council establishes its internal regulations and the modalities of home consultation.

Article 422: Quorum - Voting - Majority

The National Council for Labor, Employment and Social Security can only validly issue an opinion if, at least, half plus one of the members having a deliberative vote are present.

If this condition is not met, the meeting is postponed for three days. On this date, the council will be able to validly deliberate regardless of the number and category of members present.

For voting, when the employer and worker representatives are not equal in number, the youngest in the surplus category abstain from voting to restore equality of voting.

The council decides by a majority of the members present having deliberative voice and not deprived of the right to vote by application of the preceding paragraph.

Article 423: Minutes of secretariat meetings

The minutes drawn up during each session, signed by the president, are communicated to each member for approval or rectification.

The minutes must include, in the event of sharing of voices, the opinions which were expressed by both the majority and the minority.

The final minutes are kept at the labor management and can be communicated to the public.

The labor department is responsible for the secretariat of the national council of labor, employment and social security, the establishment of the preparatory documentation attached to the summons, the establishment of the minutes, the custody of the preservation of the council's archives.

Article 424: Travel expenses - Allowances

A decree taken by the Council of Ministers determines the conditions under which members called to sit on the national council of labor, employment and social security benefit from free transport, reimbursement of travel expenses and possibly, loss of salary.

CHAPTER II : TECHNICAL ADVISORY COMMITTEE ON HYGIENE AND SAFETY

Article 425: Institution and role of the technical health and safety advisory committee

A technical committee is established under the Minister of Labor health and safety advisory.

This committee will include an equal number of representatives from employers and workers' representatives alongside qualified officials and experts.

This committee is responsible for assisting the Minister of Labor in the study of all questions concerning hygiene, worker safety and the prevention of occupational risks.

His opinion is required on any draft order.
regulating health and safety measures for workers.

An order from the Minister of Labor regulates the composition and operating conditions of the technical committee of hygiene and security.

OFFENSES AND PENALTIES

CHAPTER I: GENERAL PROVISIONS

Article 426: Mitigating circumstances

The provisions of the penal code relating to mitigating circumstances are applicable to all offenses against the provisions of this code.

Article 427: Fines

When a fine is imposed under the provisions of this book, it is incurred as many times as there are infractions, without, however, the total amount of fines applied being able to exceed fifty times the maximum rates incurred. .

In matters of simple police contravention of the provisions of Book III of this code and the texts taken for their application, the fine is applied as many times as there are workers employed in conditions contrary to the legislative provisions or regulations. -comments concerned.

Article 428: Civil liability of the business manager

The head of the company is civilly liable for convictions pronounced against their authorized representatives or their employees unless delegated to them in the area where the offense was committed.

However, the business manager can only take advantage of the delegation if it has been made in writing, accepted expressly and with full knowledge of the facts by the delegate and provided that the latter has all the material means and legal to enforce the legislation and regulations that it is responsible for enforcing.

CHAPTER II: CIVIL FINES

Article 429: Offenses punishable by civil fines

1°) Any assessor of the labor court who, without valid justification, did not go to his post on the summons which was notified to him, is punished with a fine of five thousand ouguiyas (5,000 Um).

In the event of a repeat offense within one year, the civil fine will be ten thousand ouguiyas (10,000 Um) and the court may, in addition, declare him incapable of exercising, in the future, the functions of assessor. to the labor court.

The judgment is printed and posted at his expense.

Fines are imposed by the labor court.

2°) the same civil fines are applicable, to the same rate and under the same conditions, to any mediator, arbitrator or member of the arbitration council who has not fulfilled his obligations in terms of the conflict resolution procedure as set out in the provisions of articles 334 et seq. of this code.

Fines are imposed, depending on the case, by the president of the mediation commission or by the president of the arbitration council.

3°) The same civil fines are applicable, under the same conditions and at the same rates, to any person who, summoned to an attempt at conciliation for an individual or collective dispute or to mediation for a collective dispute, has not referred to this summons.

The fine is pronounced by the labor inspector or the mediation commission, as the case may be, by means of a report endorsed with the enforceable form by the president of the labor court.

4°) The perpetrators of the offenses referred to in 1°, 2°, 3° of this article also lose the right to participate in markets, calls for tenders and tenders launched by the state, public authorities or public companies.

CHAPTER III: OFFENSES

Article 430: Competent jurisdiction

The offenses provided for and punished in this Chapter are prosecuted before the criminal court competent in tort matters and punished with the penalties below.

Article 431: Suspended sentence and repeat offense

The suspended sentence law is applicable to offenses provided for and punished by this code.

The useful time limit for establishing recidivism is five years unless otherwise provided by this code.

Article 432: Offenses relating to the right to organize

1°) infringements of the provisions of articles 270, 271, 273, 274, 284 and 291 are prosecuted against the directors or administrators of the unions and punished by a fine of ten thousand ouguiyas (10,000 Um) to twenty thousand ouguiyas (20,000 Um) and from twenty thousand ouguiyas (20,000 Um) to forty thousand ouguiyas (40,000 Um) in the event of a repeat offense.

2°) In the event of false declaration relating to the statutes, names and qualities of directors or administrators, the fine is forty thousand ouguiyas (40,000 Um).

3°) The penalties provided for by the legislation concerning authors of counterfeiting, affixing, imitation or fraudulent use of trademarks are applicable in matters of counterfeiting, affixing imitation or fraudulent use of union marks or labels.

In the case of offenses provided for in 1° and 2° of this article, the courts may, in addition, at the request of the public prosecutor, pronounce the dissolution of the professional group.

Article 433: Offenses relating to individual and collective disputes

Are liable to a fine of ten thousand ouguiyas (10,000 Um) to fifteen thousand ouguiyas (15,000 Um) violations of the provisions of article 334 relating to the notification of disputes.

Are liable to a fine of thirty thousand ouguiyas (30,000 Um) to sixty thousand ouguiyas (60,000 Um):

- any person who does not appear, without valid justification, at the conciliation attempt provided for by articles 292 to 299 and 335 to 341 to the mediation provided for by articles 342 to 349;

- any person refusing to produce documents or provide information provided for in sections 337, 345 and 354.

Article 434: Offenses relating to the designation of staff representatives and the exercise of their functions

Is punishable by a fine of twenty thousand ouguiyas (20,000 Um) eighty thousand ouguiyas (80,000 Um) and imprisonment of fifteen days to four months or one of these two penalties only, anyone who has interfered or attempted to undermine the free designation of staff delegates or members of the works consultative committee or the regular exercise of their functions or who has infringes the provisions of articles 125 et seq. and 138.

In the event of a repeat offense within three years, the fine will be forty thousand ouguiyas (40,000 Um) to two hundred thousand ouguiyas (200,000 Um).

On the third offense within the repeat offense period, the penalty imprisonment will be imposed.

Violations may be noted either by inspectors and labor inspectors, or by judicial police officers.

Article 435: Offenses relating to freedom of work, freedom of association and non-discrimination

The fact of illegally requiring forced or compulsory labor within the meaning of the article of this code will be punishable by the penalties provided for by the provisions of article 5 of law 2003-025 of 07/17/2003.

The same penalties will apply to serious violence or threats of violence perpetrated by a person on another in order to ensure the maintenance of their services or the product of their activity. By characterized violence within the meaning of these provisions, violence affecting the freedom to come and go, the freedom to work, the free disposal of one's property and the free exercise of parental responsibilities.

Is liable to the penalties provided for in article 434, or to one of these two penalties only:

- any person who has violated the provisions of article 5 relating to forced labor, articles 7, 60, 76 and 191 relating to non-discrimination and article 267 relating to freedom of association;

- any person who, by violence, threat, deception, fraud or promise, has forced or attempted to force a worker to hire himself as he wishes or who, by the same means, has prevented or attempted to prevent him from doing so to fulfill the obligations imposed by contract.

Article 436: Offenses relating to work

Any worker who has subcontracted, in whole or in part, his working contract, in violation of the prohibition made by article 148, paragraph 2.

Article 437: Offenses relating to the team contract

Any employer and any worker who has subscribed to a team contract in violation of the prohibition made by article 6 is liable to the penalties provided for in article 434 or to one of these two penalties only.

Article 438: Offenses relating to professional training

Any person who knowingly engages or attempts to engage or retain in his service a worker still bound by a contract of employment is liable to the penalties provided for in article 434 or to one of these two penalties only. apprenticeship or a trainee in the course of professional training, regardless of any damages that may be awarded to the injured party.

Article 439: Offenses relating to the payment of wages

Is liable to the penalties provided for in article 434 or to one of these two penalties only:

- any person who has contravened the provisions of articles 196, 197 and 216;

- any employer covered by a collective agreement not providing for remuneration by task or by piecework who has practiced this method of remuneration in violation of the prohibition made by article 198, paragraph 1°;

- any person who has paid piecework or piecework at a wage lower than that of work paid by time, of average capacity and working normally, carrying out similar work, in violation of article 198, paragraph 2 .

Article 440: Offenses of forgery and false declarations

Any person who:

- will have knowingly made a false declaration of a work accident or occupational disease;

- using a fictitious contract or a work document containing inaccurate information, is hired or voluntarily replaces another worker;

- will have knowingly carried, on the worker's card, the employer's register or any other document, false certificates relating to the duration of work accomplished by the worker as well as any worker who has knowingly made use of these certificates.

Article 441: Corruption offenses

Is liable to the penalties provided for in article 434 or one of these two penalties only:

- any person who has demanded or accepted from the worker any remuneration as an intermediary in the settlement or payment of salaries, allowances, allowances and costs of any kind;

- any person who has offered or given to an agent forming part of the labor administration remuneration, in any form whatsoever and any person who, being part of this administration, has accepted such remuneration.

Article 442: Offenses relating to commissaries

Only perpetrators of offenses against the provisions of Articles 205 and 206 are liable to the penalties provided for in Article 434 or one of these two penalties, except in matters of posting.

Article 443: Offenses relating to the control of labor inspectors

Any person who has opposed or attempted to oppose the execution of the obligations or the exercise of the powers incumbent upon the labor inspectors and controllers as well as heads of administrative districts acting as substitutes for labor inspectors.

The offense can be noted either by inspectors and labor inspectors, or by judicial police officers.

The provisions of the penal code which provide for and repress acts of resistance, insults and violence against judicial police officers are, in addition, applicable to those who are guilty of acts of the same nature with regard to inspectors. and labor inspectors or their deputies.

Article 444: Offenses relating to posting of security

Any employer who withholds or uses, in his personal interest or for the needs of his business, the sums or securities given as security is subject to the penalties of breach of trust.

Article 445: Offenses relating to the strike

Only any striking worker is liable to the penalties provided for in Article 434 or to one of these two penalties:

- required in accordance with the provisions of article 360 and the texts taken for its application, has not complied with the requisition order or who, occupying one of the jobs appearing on the list fixed by the decree provided for by the said article, interrupted his work; regardless of this criminal sanction, the said worker may be immediately dismissed without notice or other compensation than, where applicable, compensation for paid vacation;

- will have occupied the workplaces or their immediate surroundings of non-peaceful manner.

Article 446: Offenses relating to multiple employment

Any person who knowingly contravenes the provisions of Articles 390, 391 and 392 is liable to the penalties provided for in Article 434 or to one of these two penalties only.

CHAPTER IV: SIMPLE POLICE CONTRACT

Article 447: Competent jurisdiction

The contraventions provided for in this chapter are prosecuted before the court having jurisdiction over simple police contraventions.

Article 448: Repeat offense

For contraventions, there is a repeat offense when, in the twelve months preceding the act prosecuted, the offenders have already been the subject of a conviction for an identical act.

Article 449: Fines

Violations of this chapter are punishable by a fine of five thousand ouguiyas (5,000 Um) to twenty thousand ouguiyas (20,000 Um) and by a sentence of fifteen days to one month in prison or by one of these two penalties only. and, in the event of a repeat offense, from ten thousand (10,000 Um) to fifty thousand ouguiyas (50,000 Um) or one of these two penalties only.

Article 450: Punishable offenses

Are sanctioned by the penalties provided for in article 449: -

infractions of the provisions of articles 9, 10, 18, 23, 39, 42, 45, 106, 110, paragraph 2, 115, 198, paragraph 3, 200, 201 , 203,204, 205 and 206 (only in terms of display 217, 218, 219, 220, 221, 234 and 235, 398 and 399, 400, 402, 407 paragraph 6, 414);

- infringements of the provisions of decrees and orders taken into account application of articles 95, 106, 115, 172;

- infringements of the provisions of Book III and the decrees and orders issued for their application

- infringements of the provisions of articles 124, 139, 385, 386, 387, 404 and decrees and orders issued for their application.

Article 451: This law will be published according to the emergency procedure and executed as state law

The president of the Republic
Maaouya Ould Sid Ahmed Taya

The Prime Minister
Master Sghair Ould M'Bareck

The Minister of Public Service and Employment
Mrs. Salka Mint Bilal Ould Yamar

PCCC

The Minister Secretary General of the Presidency of the Republic
Dah Ould Abdel Jelil