

### 1. How women (Employees) are to be treated at the workplace?

Where a woman is employed on like work with a man in the same employment she shall be entitled to remuneration at the same rate as that man. (Section 8, Emp Act CAP 160)

### 2. What are the forms of Contract outlined inside the Law?

A contract of employment may be made in any form, whether written or oral: Provided that a contract of employment for a fixed term exceeding 6 months. or making it necessary for the employee to reside away from his ordinary place of residence shall be in writing and shall state the names of the parties, the nature of employment, the amount and the mode of payment of remuneration, and, where appropriate, any other terms and conditions of employment including housing, rations, transport and repatriation. (Section 9, Emp Act CAP 160)

### 3. What is the duration of a contract?

The maximum duration of employment that may be stipulated or implied in any contract shall in no case exceed 3 years.(Section 15, Emp Act CAP 160)

### 4. How long is a Probationary period stated inside the Law?

Every contract of employment for an unspecified period shall be subject to a probationary period of 3 Months.

### 5. During a probationary period can an employer terminate an employee?

During the probation period, a contract of employment may be terminated by either party without notice at any time.  
An Employee is deemed to be a permanent employee on the expiry of the probation period.  
To avoid doubt, the probationary period cannot be extended or renewed for a further period on the expiry of the probation period. (Section 14, Emp Act CAP 160)

### 6. What does the law says about Remuneration (Wage/Salary)?

Remuneration shall be paid not later than 8 days after the end of the period to which it relates. [Section 16(6)]

Remuneration due to the employees shall be paid I priority over those due to supplier . [Section 19(2)]

No proceedings may be instituted by an employee for the recovery of remuneration after the expiry of 3 years from the end of the period to which the remuneration relates. [Section 20]



## **EMPLOYMENT ACT CAP 160** **BROCHURE**

### **INDUSTRIAL RELATIONS UNIT**

**Private Mail Bag 9022**  
**TEL: (678) 33130**  
**PORT VILA**

**P.O. Box 03**  
**TEL: (678)33740**  
**LUGANVILLE**

#### **Our VISION**

- ◆ promoting a harmonious and peaceful work environment

#### **Our Role**

- ◆ The utmost reasons why this unit is been established in the Department of Labour was to Work on maintaining a good relationship between employers and their staff in the workplace.
- ◆ Ensure terms and conditions of employment offers are decent.
- ◆ Responsible for mediating in labour disputes in the private and semi-government sector.
- ◆ Labour relations officers deal almost exclusively with unionized workplaces,
- ◆ Deals with implementing Labour polices and make sure all employers and employees enjoy a good working environment free from malpractices and conflicts.
- ◆ Promote and negotiates collective bargaining agreements with the Industrial Parties.
- ◆ Manages grievances procedures to handle complaints
- ◆ Personnel policy or Entitlements

### 7. What are the normal hours of work?

No employee shall be required to work in any undertaking more than 44 hours or 6 days in any week or more than 8 hours in any day exclusive of the time allowed for meals and tea. (Section 22, Emp Act CAP 160).

### 8. Should an employee work on a public holiday or Sunday?

Except where he voluntarily undertakes so to do no employee shall be required to work on a Sunday or public holiday.

An employee working on a Sunday or public holiday in pursuance of subsection (2) shall be granted an equivalent period of time off work on another day. (Section 23, Emp Act CAP 160)

### 9. Are employees allowed to have Meal and tea break?

Every employee who is at work for more than 6 consecutive hours on 1 day shall be granted a break of 1 hour for a meal and a tea break of 20 minutes or 2 tea breaks of 10 minutes each. (Section 24, Emp Act CAP 160)

### 10. Are employees entitle to a Weekly day of rest?

Every employee shall be entitled to a weekly rest of 24 consecutive hours which shall normally fall on a Sunday except where another day has been fixed by agreement between employee and employer or in any trades where it is usual to take another day. (Section 25, Emp Act CAP 160)

### 11. Do employees get paid for working overtime?

In respect of work carried out in excess of the normal hours of work mentioned in section 22(1) an employee shall be paid overtime at the following rates –

- (a) For work on public holidays or Sundays: at a minimum rate equal to one-and-a-half times the normal hourly rate;
- (b) For work carried out in excess of the normal weekly hours of work –
  - For the first 4 hours: at a minimum rate equal to one-and-a-quarter times the normal hourly rate;
  - In excess of 4 hours: at a minimum rate equal to one-and-a-half times the normal hourly rate;(Section 26, Emp Act CAP 160)

**12. Will employees entitle to annual leave and will they get paid while on leave?**

Every employer shall grant to an employee who has been in continuous employment with the same employer for;

- A. a period of 1 to 6 years annual leave on full pay at the rate of 1.25 working days per month for each year of employment; or
- B. A period of 7 to 19 years annual leave on full pay at the rate of 1.75 working days per months for each year of employment. (Section 29, Emp Act CAP 160)

**13. How will employees take their annual leave?**

The annual leave shall be taken in one period or if the employer and the employee so agree, in not more than 2 separate periods. (Section 30, Emp Act CAP 160)

**14. What does the law says about Sick leave?**

Every employee who has been in continuous employment with the same employer for more than 3 months shall be entitled in every to 21 working days leave on full pay on grounds of illness.

An employee who absents himself from work on grounds of illness shall, except where the employer is aware of the nature of the illness, as soon as practicable notify the employer of the illness and if he remains ill –

- (a) within the municipal boundaries of Port Vila or Luganville for more than 2 days;
- (b) in any other area for more than 4 days,

(Section 34, Emp Act CAP 160)

**15. Does a woman (Employee) allowed to a maternity leave?**

1. An employer shall allow a woman employee to leave her work upon production by her of a medical certificate stating that her confinement is likely to take place within 6 weeks, and shall not permit her to work during the 6 weeks following her confinement.

2. While absent from work on pursuance of subsection 36 a woman employee shall be entitled to be paid 66 % she would have earned had she not been absent.

(Section 36, Emp Act CAP 160)

**16. What does the law says about Termination of Contract?**

Subject to the provisions of this Part a contract of employment shall terminate on the last day of the period agreed in the contract or on the completion of the piece of work specified therein. (Section 48, Emp Act CAP 160)

**17. What does the law says about Notice of Termination of Contract?**

A contract of employment for an unspecified period of time shall terminate on the expiry of notice given by either party to the other of his intention to terminate the contract.

Notice may be verbal or written, and, subject to subsection (3), may be given at any time. (Section 49, Emp Act CAP 160)

**18. What does the Employment Act say about Misconduct employees?**

(1) In the case of a serious misconduct by an employee it shall be lawful for the employer to dismiss the employee without notice and without compensation in lieu of notice.

No employer shall dismiss an employee on the ground of serious misconduct unless he has given the employee an adequate opportunity to answer any charges made against him and any dismissal in contravention of this subsection shall be deemed to be an unjustified dismissal.

An employer shall be deemed to have waived his right to dismiss an employee for serious misconduct if such action has not been taken within a reasonable time after he has become aware of the serious misconduct.

**19. What happens if an employer ill treats a worker?**

(1) If an employer ill treats an employee or commits some other serious breach of the terms and conditions of the contract of employment, the employee may terminate the contract forthwith and shall be entitled to his full remuneration for the appropriate period of notice in accordance with section 49 without prejudice to any claim he may have for damages for breach of contract.

(2) An employee shall be deemed to have waived his right under subsection (1) if he does not claim it within a reasonable time after he has become aware of his being entitled thereto.

**20. How is severance pay calculated?**

The amount of severance to be paid to the employee who has been in continuous employment 12 months consecutive shall be 1-month wages for 1 year. (Section 56, Emp Act CAP

**21. How many years should an employee work for an employer in order to be entitled to severance pay upon resignation?**

Where an employee has been in continuous employment with the same employer for a continuous period of 12 consecutive years and the employee resigns in good faith, the employer shall pay severance allowance to the employee. (Section 54, Emp Act CAP 160)

**22. what are some reasons employees can be entitle to Severance pay?**

- where an employee has been in the continuous employment of an employer for a period of not less than 12 months commencing before, on or after the date of commencement of this Act, and-
    - ◆ the employer terminates his employment; or
    - ◆ the employee retires on or after reaching the age of 60 years; or
    - ◆ the employer retires the employee on or after reaching the age of 55 years; or
    - ◆ the employee ceases to be employed by reason of illness or injury and is certified by a registered medical practitioner to be unfit to continue to work
- (Section 54, Emp Act CAP 160)

**23. Is it possible for an employee to miss out on his or her severance pay?**

- ◆ Severance allowance shall not be payable to an employee who has been recruited outside Vanuatu and is not ordinarily resident in Vanuatu.
  - ◆ An employee shall not be entitled to severance allowance if he is dismissed for serious misconduct as provided in section 50.
  - ◆ (Where –
    - ◆ an employer dies and the employee is employed or offered employment by the personal representative of the deceased forthwith after the death;
    - ◆ employment by a partnership ceases on the dissolution of the partnership,
    - ◆ employment by a body corporate ceases on the dissolution of that body
    - ◆ employment ceases on the disposal of the goodwill,
- (Section 55, Emp Act CAP 160)

**24. What does the law says about Repatriation?**

Subject to section 63 every employee whose ordinary place of residence is more than 50 kilometres away from his place of employment and who has been brought to the place of employment by the employer or his agent shall have the right to be repatriated at the expense of the employer to his place of origin. (Section 58, Emp Act CAP 160)