

**CARICOM MODEL HARMONISATION ACT  
REGARDING TERMINATION OF EMPLOYMENT**

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**PART I - PRELIMINARY**

*Objectives*

1. The objectives of this Act are:

(a) to give effect to the provisions of the ILO Convention concerning Termination of Employment No. 158 (1981);

(b) to confer upon employees the right to continuity of employment and protection against unfair dismissals;

(c) to establish procedures for employees and employers to follow to terminate an employment relationship in a fair and equitable manner.

*Interpretation*

2. In this act:

"collective agreement" means a written agreement between an employer, or an employersorganisation authorized by the employer, and a trade union concerning terms and conditions of employment and any other matter of mutual interest;

"commission agent" means an agent or employee who is remunerated by commission;

"continuous employment" means an employee's period of uninterrupted employment with the same employer or the successor employer;

"contract worker" means a person who performs work for another person pursuant to a contract between the employer of the first-mentioned person and that other person;

"dependent contractor" means a person, whether or not employed under a contract of employment, who performs work or services for another person for compensation or reward on such terms and conditions that he or she is in relation to that person in a position of economic dependence on, and under an obligation to perform duties for that person more closely resembling the relationship of employee than that of an independent contractor;

"disabled person" means an individual whose prospects of securing, retaining, and advancing in suitable employment are substantially reduced as a result of a duly recognized physical or mental impairment; "employer" means any person or undertaking, corporation, company, public authority or body of persons who or which employs any person under a contract of employment or uses the services of a dependent contractor, commission agent or a contract worker, and includes the heirs, successors and assigns of an employer;

"employment" includes

(a) part time employment and employment under an employment contract;

(b) employment under a contract for services;

(c) engagement as a commission agent;

"employment agency" means any person who, whether for payment or not, assists persons to find employment or assists employers to find employees;

"employment contract" or "contract of employment" means any contract, whether expressed or implied and whether written in accordance with this Act or oral, whereupon it is agreed that one person (the employee) will perform certain services or labour for another (the employer); and the term shall include any contract of apprenticeship or probation;

"family responsibilities" means any responsibilities in respect of any dependent family member;

"functions" includes powers, authorities and duties;

"lockout" means an employer's closing of an enterprise or place of business, his or her suspension of work, or refusal to continue to employ any number of employees, with a view toward inducing or compelling employees directly or indirectly, through their bargaining agent, to accept conditions of employment which have been offered to the employees, and which have been rejected by them; and the term includes such action designed to induce or compel acceptance by the employees, or their bargaining agent, of another employer, of conditions of employment so offered and rejected;

"managerial employee" means an individual who works has managerial responsibilities and who works under a contract of employment;

"marital status" means the status or condition of being

(a) single;

(b) married;

(c) married but living separately and apart from one's spouse;

(d) divorced;

(e) widowed; or

(f) the *de facto* spouse of another person;

"principal" means (a) in relation to a commission agent, a person for whom work is done by that commission agent; (b) in relation to a contract worker, a person for whom a contract worker performs work otherwise than under a contract of employment;

"probationary period" means the period that may be designated as such during the three (3) months following the date on which the employment of an employee by an employer commences, or such shorter (or longer up to six months total) period of time following that date as may be agreed upon between an employer and an employee;

"redundancy" means the loss of employment as defined in section 20 of this Act;

"redundancy benefit" means the amount of money that an employee whose employment has been terminated on account of redundancy is entitled to receive from his employer pursuant to this Act;

"serious misconduct" means misconduct that is such that the employer cannot reasonably be expected to take any course other than to terminate the employment of the employee;

"strike" means a partial or total withdrawal of services from an employer by two or more employees, in concert or pursuant to a common understanding, or at the request or upon the order of their bargaining agent, either (a) as a protest against a condition of work or employer action related thereto, or (b) as a device to induce or compel the employer, or his or her bargaining agent, to accept conditions of employment which they have requested and which request has been refused; and the term may include such action designed to induce or compel the acceptance by another employer, or his or her bargaining agent, of conditions of employment which his or her employees have requested and which request has been refused; and the term further includes picketing related to working conditions and/or labour relations, generally, whether by the employees or non-

employees and whether or not signs are carried or posted and whether or not literature is being distributed;

"summary dismissal" means termination of the contract of employment by the employer without notice or with less than that to which the employee is entitled by any statutory provision or contractual agreement.

*Higher standards permitted*

3. (1) Nothing in this Act precludes higher standards than those set out in the Act being agreed upon through collective bargaining or other forms of negotiation or agreement or arbitration award.

(2) Any provision in an agreement shall be void in so far as it excludes or in any way limits the operation of any provision of the Act to the detriment of the employee.

**PART II - CONTRACTS OF EMPLOYMENT**

*Types of contracts*

4. (1) Unless otherwise provided by this Act, the provisions of this Part apply to all contracts of employment, and each person who provides services to an employer shall be employed under a separate contract of employment.

(2) A contract of employment may take one of the following forms:

(a) a contract without reference to limit of time;

(b) a contract for a specified period of time;

(c) a contract for a specific task;

(d) a contract for a probationary period of not more than 3 months.

(3) A contract without reference to limit of time may be terminated by either party, subject to the provisions of this Act concerning unfair dismissal and notice of termination.

(4) A contract for a specified period of time shall automatically terminate on the date specified for its termination and no notice shall be required for its termination at that time, but termination at any other time shall be subject to the provisions of this Act concerning unfair dismissal.

(5) A contract to perform a specific task shall terminate on the completion of the task required and no notice of termination shall be required by either party.

(6) Where the purpose or effect of a contract that is purportedly for a specified period of time or for a specific task is the filling of a post connected with the normal and permanent activity of the undertaking, establishment or service for a period of over 2 years of continuous employment as defined in Part III of this Act, it shall be deemed a contract for an unspecified period of time.

(7) A contract of employment may provide for a probationary period.

(a) The probationary period shall be for a period of 3 months following the date on which the employment of an employee by an employer commences, or such shorter period of time following that date as may be agreed upon between an employer and an employee.

(b) During the probationary period an assessment of the employee shall be undertaken and such assessment shall be communicated to the employee prior to the end of the probationary period.

(c) The probationary period may be extended upon agreement of an employer and an employee for a period not to exceed 6 months in total.

(d) The probationary period may be terminated at any time by either party without notice pursuant to section 15 of this Act.

(8) A contract which purports to be one for a probationary period but is not genuinely for that purpose, or which does not comply with subsection (7) above, shall be deemed to be a contract for an unspecified period of time.

*Employment contract*

5. Every person who employs another shall, not later than 14 days from the date on which the employment commences, prepare an employment contract in writing correctly describing the terms and conditions of employment that have been agreed upon by the employer and employee.

*Delivery of contract*

6. Where, pursuant to Section 5 above, an employment contract has been prepared;

(a) a copy of the contract shall be delivered forthwith to the employee for his or her inspection;

(b) the employer and employee shall sign the employment contract including any amendments agreed upon; and,

(c) the employer shall give the employee a signed copy of the employment contract.

*Contents of contract*

7. An employment contract between an employer and employee shall set out:

(a) the names of the employee and employer;

(b) the date of commencement of the contract;

(c) a description of the duties to be performed;

(d) the rate of remuneration, or the method to be used for calculating the remuneration;

(e) the intervals at which remuneration is paid;

(f) normal hours of work;

(g) leave entitlement, including maternity leave and pay;

(h) any provision for the termination of the contract other than those provided by the Act;

(i) any other term or condition of employment that has been agreed upon.

*Amendment of contract*

8. An employment contract between an employer and an employee may be amended from time to time as the employer and employee may agree.

*Capacity to contract*

9. (1) Every person of the age of 16 years or more shall have the capacity to enter into an employment contract pursuant to this Act.

(2) A person under the age of 16 years may enter into an employment contract only with the written consent of the parent or guardian of the person, or if none exist, with the written consent of the appropriate labour officer, and only in accordance with national law governing the employment of children.

(3) A person who is a party to an employment contract pursuant to this Act is entitled to receive directly the wages and benefits payable pursuant to the employment contract, and may sue or be sued in respect of the employment contract.

#### *Exemptions*

10. This Part shall not apply to an employee -

(1) who is employed for a specified period of less than 6 weeks or a fixed task to be performed within 6 weeks;

(2) who is a family member of the employer;

(3) whose contract of employment is regulated by a collective agreement which contains terms affording the particulars specified in Section 7 above, provided that the employee is given a copy of the collective agreement or it is posted at the place of employment.

#### *Public sector contracts*

11. (1) Every public contract for employment shall include the provisions set out in this Part.

(2) If the public contract for employment does not include the provisions set out in this Part, such provisions shall be deemed to be included in the public contract for employment.

### **PART III - CONTINUITY OF EMPLOYMENT**

#### *Continuity of employment*

12(1) Continuous employment shall begin from and include the first day on which an employee begins to work for an employer and shall continue up to and including the date of termination.

(2) It shall be presumed, unless the contrary is shown, that the employment of an employee with an employer is continuous whether or not the employee remains in the same job.

(3) An employee's continuous employment shall not be treated as interrupted if the employee is absent from work -

(a) due to taking annual leave, maternity leave or sick leave or any other leave in accordance with national law or contract or agreement;

(b) due to his or her suspension, with or without pay, in accordance with the provisions of national law or any other contract or agreement;

(c) due to the termination of his or her employment prior to being reinstated or re-engaged in accordance with this Act or national law or reinstatement or re-engagement takes place or is made effective within 6 months of the date of termination;

(d) due to having been temporarily laid-off by the employer;

(e) due to an inability to work on account of an occupational disease or accident;

(f) in accordance with the agreement of his or her employer.

(4) Any periods of time elapsing in the circumstances referred to in subsection (3) shall count for the purpose of calculating the continuous period of employment;

(5) Any period of time elapsing between the end of a probationary period and the commencement of employment with the same employer shall count for the purpose of calculating the continuous period of employment;

(6) Any period during which an employee is absent from work because of his or her participation in a lawful strike shall not interrupt the continuity of employment, but shall not count for the purposes of calculating length of continuous employment;

(7) Periods of short term contracts granted in succession with less than thirty (30) day intervals shall count for the purpose of calculating the continuous period of employment;

(8) Acceptance of severance pay by an employee shall terminate the continuous period of employment.

*Successor employer*

13. Where a business or part of it is sold, leased, transferred or otherwise disposed of, the periods of employment with the successive employers shall be deemed to constitute a single period of continuous employment with the successor employer if the employment was not terminated and severance pay was not paid pursuant to this Act.

**PART IV - TERMINATION OF EMPLOYMENT**

*Termination of employment*

14. (1) The employment of an an employee for an unspecified period of time shall not be terminated by an employer unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise pursuant to sections 18, 19 and 20 of this Part and unless the notice requirements in section 26 are complied with.

(2) The provisions of subsection (1) above shall apply to the employment of an employee for a specified period of time during the contract period prior to the date of the specified expiry of the contract.

(3) The employment relationship may be terminated by an employee for any reason in accordance with the notice requirements set out in Section 26.

*Probationary period*

15. A new employee may be required to serve a probationary period of not more than 3 months or for a period of time agreed to between the employer and the employee not to exceed 6 months total. The employer or employee may terminate the employment of an employee at any time during the probationary period for any reason and without notice.

*Unfair dismissal*

16. The following reasons do not constitute valid reasons for dismissal or for imposition of disciplinary action:

(a) an employee's race, sex, religion, colour, ethnic origin, national extraction, indigenous population, social origin, political opinion, disability, family responsibilities, or marital status;

(b) an employee's age, subject to national law or collective bargaining provisions regarding retirement;

(c) a female employee's pregnancy or a reason connected with her pregnancy;

- (d) an employee's exercise of any of the rights specified in Part II of the Harmonisation Act on Registration, Status and Recognition of Trade Unions and Employers' Organisations;
  - (e) an employee's temporary absence from work because of sickness or injury unless it occurs frequently and exceeds allocated leave entitlement;
  - (f) an employee's being diagnosed with the HIV virus unless the employee is engaged in health care work;
  - (g) an employee's absence from work due to compulsory military service or other civic obligation in accordance with national law;
  - (h) an employee's exercise or proposed exercise of the right to remove himself or herself from a work situation which he or she reasonably believes presents an imminent or serious danger to life or health;
  - (i) an employee's participation, or proposed participation in industrial action which takes place including strikes in conformity with the provisions of national labour relations law;
  - (j) the filing of a complaint or the participation in proceedings against an employer involving alleged violations of laws or regulations.
- (3) A dismissal is unfair if it is based on any of the grounds contained in subsection (2) above or constitutes constructive dismissal pursuant to section 17 below.

*Constructive Dismissal*

17. (1) An employee is entitled to terminate the contract of employment without notice or with less notice than that to which the employer is entitled by any statutory provision or contractual term, where the employer's conduct has made it unreasonable to expect the worker to continue the employment relationship.

(2) Where the contract of employment is terminated by the employee pursuant to subsection (2), the employee shall be deemed to have been unfairly dismissed by the employer for purposes of this Act.

*Summary dismissal for serious misconduct*

18. (1) An employer is entitled to dismiss summarily without notice or payment of any severance payment or terminal benefits an employee who is guilty of serious misconduct based on the operational requirements of the enterprise of such a nature that it would be unreasonable to require the employer to continue the employment relationship.

(2) The serious misconduct referred to in subsection (1) is restricted to that conduct which is directly related to the employment relationship and has a detrimental effect on the business.

*Termination for misconduct, breach of contract, unsatisfactory performance*

19. (1) Where the employee is guilty of an offense in breach of his or her condition of employment or any misconduct such that the employer cannot reasonably be expected to continue to employ him or her if it is repeated, the employer may give the employee a written warning.

(2) If the employee after being warned pursuant to subsection (1) is guilty of the same or similar offence or misconduct in the following 6 months, the employer may terminate the employee's employment.

(3) The employer shall be deemed to have waived his or her right to terminate the employment of an



employee for misconduct if he or she has failed to do so within a reasonable period of time after having knowledge of the misconduct.

(4) Where the employee is not performing his or her duties in a satisfactory manner, the employer may give him or her a written warning.

(5) If the employee after being warned pursuant to subsection (4) above and in compliance with subsection (6) below does not, during the following 3 month period demonstrate that he or she is able to perform and has performed duties in a satisfactory manner, the employer may terminate the employee's employment.

(6) The employment of an employee should not be terminated for unsatisfactory performance unless the employer has given the worker written warning pursuant to subsection (4) above and appropriate instructions to correct the unsatisfactory performance and the employee continues to perform his or her duties unsatisfactorily for a period of 3 months.

*Termination due to redundancy*

20. (1) The employer may terminate the employment of the employee because the employee was redundant pursuant to the provisions in subsection (2).

(2) The employee is redundant under subsection (1) where the termination is or is part of a reduction in the work force that is a direct result of

(a) the employer has modernised, automated, or mechanised all or part of the business;

(b) the employer has discontinued to carry on all or part of the business;

(c) the employer has sold or other wise disposed of part of the business;

(d) the employer has reorganised the business to improve efficiency;

(e) it has become impossible or impracticable for the employer to carry on the business at its usual rate or level or at all due to

(i) a shortage of materials;

(ii) a mechanical breakdown;

(iii) a force majeure; or

(iv) an act of God; or

(f) a reduced operation in the employer's business has been made necessary by economic conditions, including a lack of or change in markets, contraction in the volume of work or sales, reduced demand or surplus inventory.

(3) Prior to terminating the employment of any employee pursuant to this section, the employer shall

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(a) inform the recognised trade union, or if none exists, the employees' representative, with relevant information as early as possible on, inter alia, -

(i) the existence of the situation described under subsection (2);

- (ii) the reasons for the terminations contemplated;
  - (iii) the number and categories of the persons likely to be affected; and
  - (iv) the period over which such terminations are likely to be carried out.
- (b) consult as early as possible with the recognised trade union or if none exists, the employees' representative, on -
- (i) the possible measures that could be taken to avert or minimise the adverse effects of such situations on employment; and
  - (ii) the possible measures that could be taken to mitigate the adverse effects of any terminations on the employees concerned.

*Effect of sale that is not bona fide*

21. (1) Where one of the purposes of a sale or other disposition of a business is to enable an employer to avoid any of his or her obligations under this Act or to deprive any employee of any right under this Act, all of the obligations under this Act of the person seller or otherwise disposing of the business are binding on the person acquiring the business.

(2) Nothing in subsection (1) should be interpreted as restricting an employer from making a bonafide sale of his or her business.

*Layoffs and suspensions*

22 (1) No employer shall lay off and/or suspend an employee except where the employer is entitled pursuant to this Act.

(2) No employer shall suspend an employee from work without pay except where the employer is entitled pursuant to this Act.

(3) An employer may lay off an employee, where the conditions of redundancy exist pursuant to section 20, subsection (2), for a continuous period not to exceed 3 months at which time the lay off will be deemed a termination due to redundancy pursuant to section 20 of this Act.

(4) an employee shall not be entitled to severance pay by reason of being laid off unless he or she gives notice in writing to the employer indicating his or her intention to claim severance pay in respect of lay off and, that he or she has been laid off for a period of 8 consecutive weeks.

(5) Where an employee is employed under a contract on such terms and conditions that his or her remuneration thereunder depends on being provided by the employer with work of the kind which he or she is employed to do, the employee shall be taken to be laid off for any week in respect of which, by reason that the employer does not provide such work for him or her, the employee is not entitled to full remuneration under the contract.

*Preference to former employee*

23 (1) Where an employer has terminated the employment of an employee or has laid off an employee pursuant to sections 20 and 22, and subsequently intends, within a period of 6 months following the date of termination, to hire a person to perform duties that are the same or substantially the same as those that were formerly performed by the employee, the employer shall give first preference to the laid off employee and second preference to the employee who had been terminated.

(2) Where an employer to whom subsection (1) applies intends to hire a person, the employer shall make every reasonable effort to notify the employee who is entitled to preference under subsection

(1).

*Winding up*

24 (1) The winding up (or insolvency) of an employer's business shall cause the contract of employment of any employee to terminate one month from the date of winding up or the appointment of a receiver, unless it is otherwise terminated pursuant to sections 14, 15, 18, or 19 this Act within that period.

(2) This section shall not apply where, notwithstanding the winding up (or insolvency), the business continues to operate or has been transformed.

(3) On the winding-up or appointment of a receiver of an employers business the claim of an employee or those legally entitled to claim on his or her behalf to wages and other payments to which he or she is entitled under the Act or any contract shall have priority over all other creditors, including the State and the social security system for the following amounts -

(a) wages, overtime pay, commissions, and other forms of remuneration relating to work performed during the 26 weeks preceding the date of the opening or winding-up or appointment of the receiver;

(b) holiday pay due as a result of work performed during the two years preceding the date of the opening of winding-up or appointment of the receiver;

(c) amounts due in respect of other types of paid absence accrued during the 12 months preceding the date of the opening or winding up or appointment of the receiver;

(d) severance pay, compensation for unfair dismissal and other payments due to employees upon termination of their employment.

*Death of employer*

25. When an employer's personal or legal position formed the basis of the contract of employment, the death of the employer shall cause the contract of employment to terminate one month from the date of the employer's death, unless it is otherwise terminated in accordance with sections 14, 15, 18 or 19 of this Part.

*Notice periods*

26 (1) Where a valid reason for termination exists in accordance with this Act, a contract for an unspecified period of time, except during the probationary period, shall be terminated by the employer upon giving the following minimum periods of notice in writing -

(a) one working day - where the employee has been employed by the employer for less than one month;

(b) two weeks - where the employee has been employed by the employer for one month or more, but less than one year;

(c) one month - where the employee has been employed by the employer for one year or more, but less than five years;

(d) two months - where the employee has been employed by the employer for five years or more.

(2) The periods of notice under subsection (1) shall not apply where the giving of longer periods of notice are common given the nature and functions of the work performed by the employee.

(3) The periods of notice under subsection (1) shall not apply where periods of notice are regulated

by a collective agreement.

(4) The periods of notice under subsection (1) shall not apply where the employer is entitled to summarily dismiss an employee under this Part.

(5) A notice of termination under subsection (1) shall not be given by an employer during an employee's period of absence on any leave (paid annual leave, sick leave, maternity leave, family leave, etc.) granted under national employment laws.

(6) An employee should give an employer two weeks notice to terminate the employment contract unless due to the nature and the functions of the work to be performed a longer notice is commonly given.

(7) Nothing in this section shall prevent -

(a) the parties to a contract from agreeing to a longer period of notice of termination than is provided for in this section;

(b) an employer waiving the right to receive notice.

*Payment in lieu of notice*

27 (1) In lieu of providing notice of termination, the employer may, at his or her discretion, pay the employee a sum equal to the wages and other remuneration and confer on the employee all other benefits that would have been due to the employee up to the expiry of any required period of notice.

(2) Where the employee terminates the contract without notice in circumstances in which notice was required, and the employer has not waived the right to notice, the employee shall be entitled only to be paid such wages and other remuneration and to receive such other benefits which accrued at the date of termination

*Certificate of termination*

28 (1) On the termination of a contract of employment an employer, if so requested by the employee, shall provide the employee with a certificate of employment in accordance with national law and indicating -

(a) the name and address of the employer;

(b) the nature of the employer's business;

(c) the length of the employee's continuous service;

(d) the capacity in which the employee was employed prior to termination;

(e) the wages and other remuneration payable at the date of termination of the contract; and

(f) where the employee so requests, the reason for the termination of employment.

(2) The certificate required by subsection (1) shall not contain any evaluation of the employee's work unless this is requested by the employee.

*Disciplinary action*

29 (1) an employer shall be entitled to take disciplinary action other than dismissal when it is reasonable to do so under the circumstances.

(2) for purposes of this section "disciplinary action" include in order of severity -

(a) a written warning;

(b) suspension.

(3) No employer may impose a fine or other monetary penalty on an employee, except in cases where a requirement of restitution would be appropriate and where agreed upon between the employer and employee.

(4) In deciding what is reasonable under the circumstances pursuant to subsection (1), the employer shall have regard for the nature of the violation, the terms of the employment contract, the employee's duties, the penalty imposed by the employer, the pattern and practice of the employer in similar situations, the procedure followed by the employer, the nature of any damage incurred and the previous conduct and the circumstances of the employee.

(5) A complaint that disciplinary action is unreasonable may be made to the appropriate national judicial body for determination.

#### *Complaints of unfair dismissal*

30 (1) Within 6 months of the date of dismissal, an employee shall have the right to complain to the appropriate national judicial body that he or she has been unfairly dismissed, whether notice has been given or not.

(2) The right of an employee to make a complaint under this section shall be without prejudice to any right the employee may enjoy under a collective agreement.

#### *Burden of proof*

31 (1) In any claim or complaint arising out of the dismissal of an employee it shall be for the employer to prove the reason for the dismissal, and if the employer fails to do so there shall be a conclusive presumption that the dismissal was unfair.

(2) In the circumstances mentioned in section 17 it shall be for the employee to prove the reason which made the continuation of the employment relationship unreasonable.

#### *Remedies*

32 (1) If the employee's complaint of unfair dismissal is found to be proven to the satisfaction of the court it shall award the employee one or more of the following remedies -

(a) an order for reinstatement whereby the employee is to be treated in all respects as if he or she had never been dismissed;

(b) an order for re-engagement whereby the employee is to be engaged in work comparable to that in which he or she was engaged prior to his or her dismissal, or other reasonable suitable work, from such date and on such terms of employment as may be specified in the order or agreed by the parties;

(c) an award of compensation as specified in subsection (4);

(d) or such other remedies as the judicial body may order.

(2) The judicial authority shall, in deciding which remedy to award, first consider the possibility of making an award of reinstatement or re-engagement, taking into account in particular the wishes of

the employee and employer and the circumstances in which the dismissal took place, including the extent, if any, to which the employee caused or contributed to the dismissal.

(3) Where the judicial authority finds that the employee engaged in misconduct notwithstanding the unlawful nature of the dismissal, it may include a disciplinary penalty as a term of the order for reinstatement or re-engagement.

(4) An award of compensation shall be such amount as the judicial authority considers just and equitable in all the circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal. The amount awarded shall not be less than 2 weeks pay for each year of service, and one month pay for each year of service for workers with more than 2 years of service of seniority. An additional amount to such loss should be awarded where the dismissal was based on any of the reasons under section 16.

#### **PART V - SEVERANCE PAY**

##### *Severance or redundancy pay*

33 (1) On termination of employment, an employee who has completed no less than [1 year] or more of continuous employment with his or her employer shall be entitled to be paid by the employer a severance or redundancy allowance equivalent to:

(a) two week's wages for each completed year of service up to the first ten years, including the entitlement year;

(b) three week's wages for each completed year of service in excess of ten years.

(2) For the purposes of subsection (1) termination includes termination by reason of redundancy pursuant to section 20, by reason of lay off pursuant to section 22 (4), winding up or insolvency pursuant to section 24, or death of the employer pursuant to section 25 of this Act.

(3) The payment of a severance allowance under subsection (1) shall not affect the employee's entitlement, if any, to payment in lieu of notice under section 27 or to a compensatory or special award under section 32 of this Act.


(4) Subsection (1) shall not apply where the employee -

(a) is fairly dismissed pursuant to sections 14 and 15;

(b) unreasonably refuses to accept an offer of re-employment by the employer at the same place of work, under no less favourable terms than he or she was employed immediately prior to the termination;

(c) is employed by a partnership and his or her employment ceases on the dissolution of the partnership, and he or she either enters into employment with one or more of the partners immediately after such dissolution, or unreasonably refuses to accept an offer of employment by any such person on no less favourable terms than he or she was employed immediately prior to the dissolution;

(d) is employed by an employer who dies, and the employee either enters into the employment of the personal representative, widow, or any heir of the deceased employer immediately after such death, or he or she unreasonably refuses to accept an offer of employment by any such person on no less favourable terms than he or she was employed immediately prior to the death.



(5) Where the contract of employment is terminated by reason of death of the employee, the severance allowance shall be paid to the surviving spouse of the deceased employee or, in the absence of such a spouse, to such other dependent relative as the appropriate national judicial body may decide.

(6) A complaint that a severance allowance has not been paid within two weeks from the date of termination may be presented to the appropriate national judicial body, and if the complaint is found to be proven to the satisfaction of the court, it shall order payment of the amount due.