

VOLUME: X

EMPLOYMENT

Part ID: XIV Labour Health Areas ss 121128

CHAPTER: 47:01

#### 121. Application of Part XIV to labour health areas

(1) The Minister may, by order published in the Gazette, declare any area of Botswana to be a labour health area for the purposes of this Act.

(2) The Minister may, by the same order made under subsection (1) or any subsequent order published in the Gazette, apply any of the provisions of this Part to a labour health area and no such provision shall have effect unless so applied.

#### 122. Housing

(1) Subject to the other provisions of this section, every employer shall-

(a) cause his employees to be housed in such manner as may be prescribed; and

(b) provide for his employees and members of their families living with them such sanitary arrangements both at the place of employment and the place where they are housed of such scale and description as may be prescribed.

##### (2) Subsections

(1)(a) and (so far as it relates to the provision of sanitary arrangements at the place where employees are housed) (b) shall apply only in the case of employees who are housed at such distance from their homes or normal places of residence that it would be impracticable for them to return thereto at the end of the day's work or to obtain suitable alternative accommodation.

(3) Any employer who contravenes this section shall be guilty of an offence and liable to the penalties prescribed by section 151(b).

#### 123. Feeding of employees

(1) During the period of employment of any employee attested on a written contract of employment under Part IV, the employer shall, unless exempted therefrom by the Commissioner in writing, at his own expense, supply the employee and, in the case of an employee employed for a period of employment of more than two years who has been allowed by the employer to have his family with him, members of his family living with him with daily rations of sound and wholesome food in accordance with such description and scale as may be prescribed:

Provided that the employer shall not be required to supply rations in respect of any day on which the employee is absent from work unless the employee is necessarily absent for reasons of sickness or injury.

(2) Notwithstanding subsection (1), in fixing the rate of wages payable under a contract of employment, due allowance may be made for the value of any rations to be supplied in accordance with that subsection.

(3) In any contract of employment, other than a contract of employment subject to Part IV, the employer shall not be required to provide a free issue of rations.

(4) Where the Commissioner is satisfied that in any specified area or at any particular place of employment foodstuffs of adequate variety and quantity and of reasonable price are not available for purchase by employees, he may by order in writing require all or any employers in that area or the particular employer concerned to supply, at their or his own expense, as the case may be, rations on the prescribed scale:

Provided that the Commissioner may, by such an order, permit an employer to impose a charge for such rations to such extent as the Commissioner shall specify.

(5) Notwithstanding subsection (3), the employer shall, at his own expense, always supply those of his employees, who are receiving medical treatment of such a nature at the place of employment as to preclude them from engaging in their duties, with daily rations of sound and wholesome food in accordance with such description and scale as may be prescribed.

(6) Any employer may, at the request of an employee, supply him with such items of the prescribed ration scale as the employee may desire, in which case a sum not exceeding the value of the rations so supplied may be deducted from the cash wages fixed by the contract of employment.

(7) Any employer who contravenes this section or fails to comply with a requirement made of him under this section shall be guilty of an offence and liable to the penalties prescribed by section 151(c).

#### 124. Supply of water

(1) Every employer shall, at his own expense, provide for his employees and members of their families living with them and resident on land which the employer is entitled to occupy or of which he makes use an adequate and easily accessible supply of wholesome water for drinking, washing and other domestic purposes to the satisfaction of the appropriate authority and shall take all such measures as are necessary and practicable and as the appropriate authority may, by notice in writing served on the employer, require to be taken to maintain the supply and protect it from pollution.

(2) Any employer who, without reasonable excuse, contravenes subsection (1) shall be guilty of an offence and liable to the penalties prescribed by section 151(c); and in any proceedings for an offence under this subsection the court shall presume the absence of a reasonable excuse on the part of the person charged unless the contrary is proved.

#### 125. Provision of medicine and medical treatment

(1) Every employer shall, at his own expense, provide for his employees and members of their families living with them medical aid in accordance with such scale as may be prescribed:

Provided that, in so far as the provision of such medical aid for the members of the employee's family is concerned, this obligation shall extend only to cases where the employee and his family are resident on land which the employer is entitled to occupy or of which the employee makes use with the knowledge and consent of the

employer.

(2) Any employer who contravenes subsection (1) shall be guilty of an offence and liable to the penalties prescribed by section 151(c):

Provided that an employer shall not be liable under this section where any illness or incapacity is occasioned by the neglect or fault of the employee or the members of his family or where the employee or the members of his family refuse or fail to make use of the medical aid provided by the employer.

#### 126. Care of employees on journeys

(1) Every employer shall provide for his employee when on a journey arising out of his employment such articles of equipment relating to his comfort and wellbeing as seating, bedding, cooking utensils and so on as are reasonably necessary having regard to the length, duration and rigours of the journey.

(2) Any employer who contravenes subsection (1) shall be guilty of an offence and liable to the penalties prescribed by section 151(a).

#### 127. Return of employees to place of origin or engagement

(1) Where an employee has no right of repatriation under section 32 or 65, not having been brought to the place of employment by the employer or by any person acting on the employer's behalf, the employer shall, at the termination of the contract of employment, pay the expenses of repatriating the employee by reasonable means to the place of origin or the place of engagement, whichever is nearer to the place of employment, if the employee so desires:

Provided that an employer shall not incur liability under this section in respect of any employee who has not completed a period of employment of at least three months' duration unless the Commissioner so directs.

(2) The Commissioner may exempt the employer from his liability to pay the expenses of repatriation under subsection (1) if the contract of employment has been terminated otherwise than by reason of the inability of the employee to fulfil the contract of employment owing to sickness or accident and the Commissioner is satisfied-

(a) that in fixing the rate of wages proper allowance has been made for the payment of repatriation expenses by the employee; and

(b) that suitable arrangements have been made by means of a system of deposited wages or otherwise to ensure that the employee has the funds necessary for the payment of those expenses.

(3) The expenses of repatriation shall include-

(a) the cost of travelling and subsistence expenses or rations to the place of origin or the place of engagement, whichever is nearer to the place of employment; and

(b) subsistence expenses during the period, if any, between the date of termination of the contract of employment and the date of repatriation.

(4) Any employer who contravenes this section shall be guilty of an offence and liable to the penalties prescribed by section 151(b).

#### 128. Regulations in relation to labour health areas

Regulations may be made for the better carrying into effect of the purposes and provisions of this Part and, without prejudice to the generality of the foregoing, such regulations may provide-

(a) for the feeding of employees in cases where food is to be supplied by an employer under or at the termination of any contract of employment and prescribe the description and scale of rations to be supplied;

(b) for all matters relating to the supply of water by employers to employees;

(c) for and prescribe the description and scale of medicines, medical attention, accommodation, equipment, staff and treatment to be provided by employers to employees;

(d) for all matters relating to the return of employees from the place of employment to the place of origin or the place of engagement, whichever is nearer to the place of employment; and

(e) for the disinfection, disinfestation and rat-proofing of buildings.