Labour and Employment

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- The principal law relating to labour in Ghana is the Labour Act, 2003 (Act 651).
- The Act established a Labour Commission to oversee all issues relating to labour, employers, trade unions, and general industrial relations.
- The Act applies to all workers and employers except the Armed Forces, the Police Service, the Prisons Service and other public Security and Intelligence Agencies [SECURITY AND INTELLIGENCE AGENCIES ACT - 1996 (ACT 526)]
- The Act sets out the rights and duties of both workers and employers.
- The Act also describes extensively how Collective Bargaining Agreements are conducted.
- It also sets out the mode of termination of employment.

Rights and Duties of Employers

- RIGHTS

Rights of employers as set out in the Labour Act include:

- The right to employ, discipline, transfer, promote and terminate the employment contract.
- The employer is also guaranteed the right to formulate policies, execute plans and programmes, and set targets.
- The employer has the right to modify, extend or cease operations and to determine the types of product to make or sell and the price of its goods and services.
- The rights of employers as provided in section 8 of the Labour Act are enjoyed subject to the other provisions of the Act and any other enactment.

Rights and Duties of Employers

- DUTIES

The Labour Act not only gives the employer rights; it also imposes duties. Which include the following;

- to provide work and appropriate raw materials, machinery, equipment and tools to work with.
- The employer also has a duty to pay the agreed remuneration at the time and place agreed upon in the contract of employment
- The employer is also duty bound to take steps to ensure that the worker is free from risk of personal injury or damage to his or her health during the course of employment or while the worker is lawfully on the employer's premises.
- Further, the employer has a duty to train and develop her workers.
- The procedures for discipline must be transparent, the lines of communication must be opened and interest of workers must be protected generally.

The rights and duties of workers

- The rights and duties of workers are set out in section 10 and 11 of the Labour Act respectively.
- RIGHTS
  - Workers have the right to work under satisfactory, safe and healthy conditions and to receive equal pay without distinction of any kind.
  - Thus males and females doing the same or similar work are entitled to the same pay.
  - Rest, leisure and reasonable limitation of working hours, holidays and public holidays with pay are guaranteed by the Act.
  - Workers also have the right to join and form trade unions, to be trained and to receive information relevant to the work being undertaken.

The rights and duties of workers

- DUTIES

The duties as provided under the Act include;

- the duty of the worker to work conscientiously, to report to work regularly and punctually, and to enhance productivity.
- the worker is also duty bound to exercise due care in the execution of assigned work, and to obey lawful instructions regarding the organization and the execution of his or her work.
- the worker is required to take all reasonable care for the health and safety of fellow workers and to protect the interests and property of the employer.

Temporary and casual workers

- "Temporary worker" is a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for work that is seasonal in character;
- "Casual worker" is a worker engaged on work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis.

Temporary and casual workers

Part X (10) of the Labour Act has special provisions on temporary and casual workers.

- It provides that a contract with temporary or casual workers need not be in writing.
- Casual workers are entitled to equal pay for equal work done and are also entitled to the same medical facilities as other workers.
- Notwithstanding the terms and conditions agreed by the parties, the provisions of the Labour Act relating to minimum wages, hours of work, rest period, paid public holidays, night work and sick leave apply also to the temporary/casual worker.
- The status of a casual worker changes to that of a temporary worker, where the worker has been employed by the same employer on a daily basis for a continuous period of six months or more.

Employers' Responsibilities as required by the following laws

- Workmen's Compensation Law, 1987 (PNDCL 187)
- Social Security Law, 1991 (PNDCL 247)

Workmen's Compensation (WC) Law

- The WC Law is the law governing compensation for workers for personal injuries caused by accidents arising out and in course of their employment- employer's vicarious liability (*The* ***employer*** *will be held* ***liable*** *if an employee does an authorized act in an unauthorized way*).
- A workman is defined as any person who has entered into or is working under a contract of service or apprenticeship with an employer.
- The employment can be oral or written, skilled or unskilled, expressed or implied.

Exclusion of the Law

- Some category of persons are exempt from this definition

  E.G.

  - A person serving in the Armed Forces in Ghana is excluded from the law.
  - a person whose employment is casual or is employed for other services other than for the purposes of the employer's trade or business is also excluded.
  - The employer's family members dwelling in his or her compound/business premises cannot claim for workmen compensation.
  - A person who is employed in agriculture or handicraft work by an employer, who normally employs less than five workmen, is not a workman as defined by the law.

Liability of the Employer

1. Even where the accident occurred when the employee was acting in contravention of express instructions, the employer is liable if the act was done in connection with the employer's business.

2. The Law guarantees the earnings of workmen during treatment for injury. All medical expenses in respect of the injury are the responsibility of the employer.

3. If the injury results in incapacity, the employer is required to compensate the workman for the incapacity assessed.

4. Where the injury results in death or serious or permanent incapacity, the Law requires the courts to decide the degree of compensation payable.

5. However, if the injury occurred whilst the employee was under the influence of drugs or was intoxicated, the employer is **not** liable.

6. The employer is also not liable for self-imposed injuries.

7. Even though the Law provides a basic compensation, the parties can agree to compensation but that must not be less than the amount payable under the Law.

Social Security Law, 1991 (PNDCL 247) which existed before the National Pensions Act, 2008 (Act 766).

- The Social Security Law sets out the rate of contribution payable under the Law.
- Employers were required to deduct 5% of the worker's salary, and to contribute the equivalent of 12.5% of the worker's pay.
- The employer cannot deduct or recover its contribution from the worker's pay. This amount is payable monthly and must be paid within 14 days after the end of the month.
- The contribution of a self-employed person is 17% of the person's income per month.
- Under the law, a penalty of 3% per month is imposed for non-payment.
- Minimum contribution one must make in order to qualify for a full pension benefit was 240 months or 20 yrs.

The National Pensions Act, 2008 (Act 766).

- The **National Pensions Act** which replaces the **Social Security Law** caters for the establishment of a new contributory three-tier pension scheme with a National Pension Regulatory Authority (NPRA) to oversee the efficient administration of the composite pension scheme.
- The Authority (I.E. NPRA) approves, regulates and monitors Trustees, Pension Fund Managers, Custodians and other institutions relating to pension matters. It also advises government on the overall policy on pension matters in Ghana.

The three tier Pension scheme

- The First tier basic national social security scheme incorporates an improved system of SSNIT benefits and is mandatory for all employees in both the private and public sectors; which involves the payment of only monthly pensions and related benefits such as survivors benefit.
- The Second tier occupational (or work-based) pension scheme, is mandatory for all employees but privately managed, and designed basically to give contributors higher lump sum benefits than presently available under the SSNIT or Cap 30 pension schemes.

The three tier Pension scheme

The Third tier voluntary provident fund and personal pension schemes, supported by tax benefit incentives for workers in the informal sector and also provides additional funds for workers in the formal sector who want to make voluntary contributions to enhance their pension benefits.

New Contribution Rates

- The new three-tier pension scheme requires an additional contribution rate of 1% to be shared equally between the employer and employee.
- The employer will now pay 13% (instead of 12.5% **under the Social Security Law**) and the worker will now pay 5.5% (instead of the 5% **under the Social Security Law**) making a total contribution of 18.5% (instead of the 17.5% **under the Social Security Law**).

The National Pensions Act, 2008 (Act 766).

- The new Pension Law, the National Pensions Act, 2008(Act 766) was enacted on December 12th, 2008. and sets out contribution as follows

Contributor	Under the Old law	Addition under the new law	New Rate Under the new law
Employer	12.5%	0.5%	**13%**
Employee	5%	0.5%	**5.5%**
Total	17.5%	1%	**18.5%**

Remittances

- Out of the total contribution of 18.5%, the employer will remit 13.5% to a restructured Social Security and National Insurance Trust (SSNIT) towards the first tier pension scheme out of which 2.5% will be a levy for the National Health Insurance scheme. The remaining 5% will be remitted to the privately managed and mandatory second tier for lump sum benefits.
- The minimum contribution for the mandatory schemes is based on daily minimum wage and there is a maximum contribution to check abuse by contributors who inflate their emoluments towards the last years of contribution to ensure a higher pension.