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Law No. 7/2008 Labour Relations Law

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MACAO SPECIAL ADMINISTRATIVE REGION

Law No. 7/2008

Labour Relations Law

The Legislative Assembly decrees, pursuant to paragraph 1) of Article 71 of the Basic Law of Macao Special Administrative Region, that the following shall be enforced as law:

CHAPTER I General Provisions

Article 1 Object

This law establishes the general regime of labour relations.

Article 2 Definitions

For the purposes of this Law, the following definitions shall apply:

1) “Employer” means any natural or legal person, or association without legal personality, or special committee that, on the basis of a contract, has the power to exercise authority and direction over the employee and pays the latter remuneration for the work performed;

2) “Employee” means a natural person who, on the basis of a contract, performs work under the authority and direction of the employer, in return for remuneration;

3) “Working condition” means any rights, obligations or circumstances related to the conduct and actuation of the employer and of the

employee within the scope of the labour relation, or in the place where the service is rendered;

4) “Basic remuneration” means all regular pecuniary payments, irrespective of name or form of calculation, payable to the employee for work performed in accordance with an agreement between the employer and the employee or by legal regulation;

5) “Variable remuneration” means all non regular remunerations paid by the employer to the employee, including allowances, complementary bonuses and commissions, as well as tips not controllable by the employer;

6) “Normal working hours” means the period of time for which the employee is obliged to work, expressed in number of hours per day and per week;

7) “Absence” means the absence from work of the employee during the normal working hours;

8) “Overtime work” means work performed beyond the normal working hours;

9) “Seasonal work” means work which, by virtue of its nature or circumstances, is performed in a particular season or period of the year;

10) “Domestic work” means work aimed to meet the specific needs of a household or its equivalent, and its members;

11) “Term contract” means a contract whose duration ends within a fixed term or variable term.

Article 3

Scope of application

1. This Law shall apply to all labour relationships in all fields of activity, without prejudice to the following paragraphs.

2. The present Law shall not apply to:

1) Legal relations of public administration that confers the employee the identity of Public Administration employee;

2) Labour relations established between spouses or persons in a de facto marital relationship;

3) Labour relations established between persons who are related to the second degree of consanguinity and living in the same accommodation and sharing meals;

4) Relations established under contracts of apprenticeship or vocational training system for integration into the labour market.

3. The following shall be governed by special legislation:

- 1) The labour relations established with non-resident workers;
- 2) The labour relations with seafarers;
- 3) Part-time work.

Article 4 **Working conditions**

1. The working conditions regulating a labour relation are established by general or specific mandatory legal standards in the sectors of activity concerned, by regulations of the enterprise and by the labour contract.

2. This Law shall not be construed to reduce or eliminate the working conditions which exist at the date of its entry into force, if those working conditions are more favorable than those provided for in this Law.

Article 5 **Powers of the employer**

1. Within the limits arising from the labour relation and the regulations that govern it, the employer shall have the power to determine the terms on which the work will be provided and to make regulations in respect of regulations of the organization and discipline of work.

2. The preceding paragraph shall not prejudice the due respect to the technical autonomy of the employees whose professional regulation requires.

3. The employer is obliged to publish the regulations of the enterprise referred to in paragraph 1, and ensure the employee to be informed of its contents and have access to a copy of such publication.

CHAPTER II **Rights, obligations and guarantees**

Article 6 **Principle of equality**

1. All residents of the Macao Special Administrative Region (Macao

SAR) shall have equal opportunities for employment based upon nondiscrimination conditions.

2. No employee or applicant for employment shall be unduly privileged, or discriminated against or deprived of any right or exempted from any duty on ground of, inter alia, national or social origin, descent, race, colour, gender, sexual orientation, age, marital status, language, religion, political or ideological beliefs, membership of associations, education or economic background.

3. A difference of treatment which is based on one of the prohibitive grounds laid down in the preceding paragraph shall not constitute discrimination when, due to the nature of the work or the context in which it is carried out, such a characteristic constitutes a justifiable and decisive requirement to perform work.

4. The provisions in the preceding paragraphs shall not prejudice the privileged treatment of social groups in need of special protection, provided such actions are legitimate and proportional.

Article 7

Good faith

1. In negotiating and establishing a labour contract, both parties must act in accordance with good faith.

2. In performing their respective duties and exercising their respective rights, both the employer and the employee must act in accordance with good faith.

Article 8

Protection of Privacy

1. The employer and the employee should mutually respect each other's personal rights, in particular, the rights to protect the privacy of their personal lives.

2. The right to privacy relates to access to and disclosure of information relating to the private and personal lives of either party, such as their respective family life, emotional and sexual lives, state of health and their political and religious convictions.

Article 9
Obligations of the employer

The employer is obliged:

- 1) To respect and treat the employee with propriety;
- 2) To pay the employee a fair remuneration that is compatible with his/her work;
- 3) To provide good working conditions to the employee;
- 4) To take appropriate measures to raise the employee's level of productivity;
- 5) To compensate the employee, under the respective legislation, for the damages arising from occupational accidents and diseases;
- 6) To keep an updated record of each employee's date;
- 7) To fulfil other obligations arising from the regulations governing the labour relation.

Article 10
Guarantees to the employee

The employer is forbidden:

- 1) To deter, in any way whatsoever, the employee from exercising his/her rights, or to subject the employee to any adverse treatment for exercising such rights;
- 2) To impede, without justification, the effective performance of work;
- 3) To transfer the employee, without obtaining his/her written consent, to another employer under the authority and direction thereof;
- 4) To degrade the employee's professional grade without justification;
- 5) To reduce the employee's basic remuneration, save in cases provided for in this Law;
- 6) To force the employee to purchase goods or use services provided directly by the employer or any person he/she indicates;
- 7) To detain identification documents of the employee.

Article 11
Obligations of the employee

1. The employee is obliged:

1) To respect and treat with propriety the employer, superiors, co-employees and any other people who are in connection with the enterprise;

2) To be diligent and punctual;

3) To perform his/her work with zeal and commitment;

4) To obey the employer in what is involved in the execution and discipline of the work, unless the employer's orders and instructions are contrary to his/her rights and guarantees;

5) To be loyal to the employer and, in particular, not to compete with the employer either directly or for the sake of a third party, and not to disclose information regarding the organization, production methods or business transactions of the enterprise;

6) To keep in good condition and use properly work-related property and equipment entrusted to them by the employer;

7) To cooperate in all actions for improving the production rate of the enterprise;

8) To collaborate with the employer on health and safety at work, through proper means;

9) To fulfil other obligations arising from the regulations governing the labour relations.

2. The obligation of obedience defined in subparagraph 4) of the preceding paragraph, involves the orders and instructions given directly by the employer as well as those given by the employee's superiors with power assigned by the employer.

Article 12

Conditions for occupational safety and health

1. The work must be provided in good conditions of hygiene and safety, and at places of work that fulfils the conditions as stipulated by law or regulation.

2. The employers and the employees are obliged to strictly comply with laws and regulations as well as guidelines set by the competent authorities with regard to hygiene and safety.

Article 13

Record keeping

1. The employer is obliged to keep a record of the employees' data in

books, data cards, or information system, which include:

- 1) Personal data of the employee, including his/her name, sex, age and form of contact;
- 2) The date of admission;
- 3) The professional grade or function;
- 4) The remuneration, broken down according to subparagraphs 4) to 7) of paragraph 6 of Article 63;
- 5) The normal working hours;
- 6) The holidays taken;
- 7) The total number of days for absence and the number of days for paid sick leave or accident leave;
- 8) Occupational accidents and diseases;
- 9) All data provided by the employee that contribute to the protection of his/her interest.

2. The employer is obliged to keep in record the data referred to in the preceding paragraph for the duration of the labour relation plus three years after the termination thereof.

3. In the course of the labour relation, the employee is entitled to ask the employer to issue a certificate on the data referred to in paragraph 1.

CHAPTER III

Labour Contract

SECTION I

General Provisions

Article 14

The contract

1. The employer and the employee are free to conclude labour contract regulating working conditions, without prejudice to the following paragraphs.

2. The employer and the employee may reach agreement on contractual terms which are different from those provided for in this Law, provided that implementation of these terms does not result in working conditions less favorable to the employee than those provided for in this Law.

3. Where the working conditions established by contractual terms are less favorable to the employee than those provided for in this Law,

these terms shall be deemed null and void and shall be replaced with the provisions of this Law.

4. In the absence of contractual provisions on the working conditions, the provisions of this Law shall apply.

Article 15 **Capacity**

The capacity to enter into labour contract shall be governed by the general rules of law and shall be limited to those who have attained sixteen years of age.

Article 16 **Types**

A labour contract may be a fixed term or variable term contract, and an indefinite contract.

Article 17 **Form**

1. The labour contract is not subject to a special form and may be concluded verbally or in writing, without prejudice to the following paragraph.

2. A term labour contract and a labour contract of minors shall be subject to written form.

3. The written contracts or agreements must contain the identification and signature of each party, whereof one copy is to be held by each party.

Article 18 **Probationary Period**

1. The labour contract shall include a probationary period, for which duration the parties may evaluate their interest in maintaining the labour relation.

2. The probationary period is presumed to be ninety days for an indefinite contract and thirty days for a term contract, without prejudice to any written agreement to the contrary.

3. Where an agreement referred to in the preceding paragraph is concluded, the probationary period may be eliminated or different limits may be provided for its duration which shall not exceed:

1) Ninety days for most employees;

2) One hundred and eighty days for employees whose work is of highly technical nature or involving special qualifications, as well as for employees who hold leadership and management positions;

3) Thirty days for employees under term contracts.

4. During the probationary period, either of the parties may terminate the contract without having to show just cause and without any right to compensation arising from such.

5. Termination of the contract is not subject to previous notice during the probationary period, except in the following circumstances:

1) The parties agree so in writing, provided the agreed previous notice period shall not exceed the previous notice period set forth in this Law for the termination of the labour contract beyond the probationary period;

2) Where the probationary period lasts longer than ninety days, either of the parties is obliged to give a minimum of seven days previous notice to the other party.

6. The length of service of the employee shall be counted from the start of the probationary period.

SECTION II

Term labour contract

SUBSECTION I

General Provisions

Article 19

Admissibility

1. Without prejudice to the circumstances set forth by special legislation on employment policy, a term contract shall only be entered into to satisfy temporary needs of the enterprise, particularly of a

seasonal, temporary or special nature, for as long as is strictly necessary for this purpose.

2. The following, among others, are considered temporary needs of the enterprise:

- 1) Starting a new task for an uncertain period;
- 2) Development of projects not included in the daily activities of the employer, including design, research, management and supervision;
- 3) Implementation, management and supervision of works of civil construction, public works, industrial assemblies and repairs, including related projects and other complementary activities of control and monitoring, as well as other temporary works of similar nature either by contract or direct management;
- 4) Performance of seasonal work;
- 5) Performing unpredictable tasks, arising from the exceptional increase in the enterprise's activities;
- 6) Replacement of an absent employee.

3. Concluding a variable term labour contract for the performance of seasonal work shall not be allowed.

4. The labour contracts concluded in cases other than those referred to in the preceding paragraphs shall be deemed as indefinite labour contracts.

Article 20

Mandatory particulars

1. Without prejudice to paragraph 3 of Article 17, a term labour contract must contain the following particulars:

- 1) Residence or headquarter of either party;
- 2) The term of the contract and the grounds justifying it;
- 3) The professional grade or functions agreed upon and the respective remuneration;
- 4) Place of work;
- 5) Working time and normal working hours;
- 6) Date when the contract comes into effects;
- 7) Name and functions of the replaced employee, in the case of replacing an absent employee;
- 8) Date when the contract is entered into.

2. A contract which lacks any of the following conditions shall be considered as an indefinite contract:

- 1) Written form;
- 2) Names and signatures of both parties;
- 3) The grounds justifying the term set by the parties.

3. The statement of the grounds justifying the term shall make express reference to the facts on which the justification is based, and shall establish a link between the justification relied upon and the term set.

4. In the absence of the reference set forth in subparagraph 6) of paragraph 1, the contract shall be considered to take effect from the date of its conclusion.

SUBSECTION II

Fixed term labour contracts

Article 21

Duration

1. The duration of a fixed term contract shall last for the period agreed on by the parties, but shall not exceed two years, including renewals.

2. In the circumstances stated in subparagraph 4) of paragraph 2 of Article 19, the contract shall only be concluded for a maximum period of six months and cannot be renewed.

3. In the circumstances stated in subparagraph 5) of paragraph 2 of Article 19, the duration of the contract, whether renewed or not, shall not exceed one year.

Article 22

Renewal

1. In the absence of a written declaration to the contrary by the parties, the fixed term contract shall expire at the end of the stipulated term, without being automatically renewed.

2. The renewal of the fixed term contract is subject to verification of the material conditions for its conclusion, as well as to the required form in case of any alteration to the mandatory particulars referred to in paragraph 1 of Article 20.

3. A fixed term contract may not be renewed more than twice.

4. A fixed term contract with the object of renewal shall be considered

as a single contract.

5. If a new contract is concluded between the parties within three months after the termination of a fixed term contract, it shall be considered as renewal of the first contract, in which case the employee's length of service shall be counted from the effective date of the first contract, excluding the interval between the two contracts.

Article 23

Conversion of contract

1. A contract will be converted into an indefinite contract in the following circumstances:

1) When it exceeds the limits set out in Article 21 or paragraph 3 of Article 22; or

2) After the end of the period agreed upon, the employee continues to provide his/her service according to the employer's instruction.

2. In the circumstances described in the preceding paragraph, the length of service shall be counted from the effective date of the first contract.

SUBSECTION III

A variable term labour contract

Article 24

Duration

1. The duration of a variable term contract shall last for the period needed to complete its object, but shall not exceed two years.

2. After having known the predicted date for completing the object of the contract, the employer shall serve written notice on the employee, in compliance with the previous notice period for terminating the contract provided for by this Law.

3. Failure to comply with the duty of previous notice referred to in the preceding paragraph shall entitle the employee to compensation equal to his/her basic remuneration corresponding to the number of days lacking in the prescribed notice period.

Article 25
Conversion of contract

1. A contract shall be converted into an indefinite contract in the following circumstances:

- 1) When it exceeds the limit set out in paragraph 1 of Article 24;
- 2) After the period of previous notice expires, the employee continues to provide his/her service according to the employer's instruction; or
- 3) In the absence of the notice referred to in the preceding paragraph, the employee continues to work according to the employer's instruction after fifteen days from the completion of the contract's object.

2. In the circumstances described in the preceding paragraph, the length of service of the employee shall be counted from the date when the first contract becomes effective.

SECTION III
Labour contract of minors

Article 26
General principles

1. The work conducted by an employee of between sixteen and eighteen years of age shall be considered work of a minor, without prejudice to the provisions of paragraph 1 of the next article.

2. The employer is obliged to provide the minor employees with working conditions suitable to their age, especially to prevent any situation that will affect their education and endanger their safety, health, and physical and mental development.

3. The employer is obliged to promote vocational training for minor employees and, in the case of insufficient resources, to request the cooperation of the competent authorities for this purpose.

Article 27
Exclusions

1. The conclusion of a labour contract with a minor under sixteen

years of age shall only be permitted under exceptional circumstances by the Labour Affairs Bureau (DSAL), after hearing the opinion of the Education and Youth Bureau.

2. The provisions of the preceding paragraph shall not apply to minors of between fourteen and sixteen years of age who work for public or private entities during the school holidays in summer.

3. Without prejudice to the provisions of the preceding paragraphs, only minors who have completed compulsory education may be allowed to work.

4. The employment of minors for activities of cultural, artistic or advertising nature shall be allowed, irrespective of their age, if it has obtained the authorization referred to in paragraph 1 and does not adversely affect their school attendance.

5. The employer must obtain the authorization of the Labour Affairs Bureau prior to the conclusion of contract, in addition to a written authorization from the legal representative of the minor.

Article 28

Conditions of admission

1. Without prejudice to the preceding article, minors shall only be hired for employment, irrespective of the type and form of payment of remuneration, if they cumulatively meet the following conditions:

- 1) Having attained the minimum age to work;
- 2) Having the adequate mental and physical capabilities to perform the functions, with proof of medical certificate;
- 3) Having written authorization from their legal representatives.

2. If the work performed by the minor is on the list of occupations with restricted conditions approved by dispatch of the Chief Executive, the employer must, prior to the commencement of the labour relation, conduct an assessment of the nature, extent and duration of risk exposure at work.

3. The Labour Affairs Bureau may demand the employer to adopt specific measures to prevent minor employees from being harmed by adverse working conditions.

Article 29
Prohibitions

The employer shall not arrange minors to perform the kinds of work listed below:

- 1) Domestic work;
- 2) Overtime work;
- 3) Work during the period from 9 pm to 7am of the following day;
- 4) Work at places where admission is forbidden to persons under eighteen;
- 5) Work on the list of prohibited occupations for minors, approved by dispatch of the Chief Executive.

Article 30
Protection of Health

1. The employer is responsible for arranging, at his/her own expense, annual medical examinations for the minor employees to certify that they have adequate physical and psychological health to perform their work, as well as to prevent harm to their health and physical and mental development.

2. The employer must notify the minor employee of the results of the medical examination and in the case that the medical examination is not conducted at the Labour Affairs Bureau, send the results to the Labour Affairs Bureau, within fifteen days of the date on which the employee completes one year of work.

Article 31
Notice

1. The employer must notify the Labour Affairs Bureau of the conclusion of the labour contract with a minor, by submitting a copy of the contract, within fifteen days from the date of its conclusion, except in the case referred to in paragraph 2 of Article 27.

2. The notice referred to in the preceding paragraph shall be accompanied by a copy of the medical certificate attesting the minor's physical and

mental fitness to perform his/her functions, and the assessment referred to in paragraph 2 of Article 28.

Article 32

Opposition of the minor's legal representatives

The legal representatives of the minor may file a written objection to the performance of work by the minor at any time when risks to the minor's physical or mental health or harm to his/her school career are verified.

CHAPTER IV

Labour relation

SECTION I

Working time

Article 33

Normal working hours

1. Normal working hours shall not exceed eight hours a day and forty-eight hours per week.

2. The employer may decide, according to the characteristics of the operation of the enterprise, and by agreement with the employee, that the daily working hours exceed the limits set out in paragraph 1, provided that the employee shall have ten consecutive hours and a total of not less than twelve hours of rest per day, and that the working hours shall not exceed forty-eight hours per week.

3. The employer is obliged to give the employee a break period of not less than thirty consecutive minutes, so that the employee will not work more than five consecutive hours.

4. The break period set out in the preceding paragraph shall be counted toward the normal working hours if the employee is not allowed to be away from the workplace unconditionally.

5. The periods set out in paragraph 1 do not include the time needed for preparation to start work and for concluding the transactions,

activities and services which have not yet been finished, but the aforementioned time as a whole shall not exceed thirty minutes per day.

Article 34
Scheduling of working time

1. The employer shall have the power to set the working time schedule for the employees in his/her service.

2. Changing the working time stipulated in the labour contract shall be subject to mutual agreement between the parties.

Article 35
Exemption for the working time schedule

1. Employees who perform the following work may be exempted from the working time schedule:

- 1) Work in leadership or management positions, or positions of external supervision;
- 2) Work in places outside of the establishment and not subject to immediate control of their superiors;
- 3) Academic or research work not under the supervision of a superior;
- 4) Domestic work.

2. The exemption from working time schedule shall be made by written agreement.

3. Employees who are exempted from the working time schedule may be exempted from observation of normal working hours, without prejudice to their right to the break, weekly rest, mandatory holidays, vacations and other guarantees.

Article 36
Overtime work

1. Overtime work may be performed in the following circumstances:

- 1) By prior arrangement of the employer, irrespective of the employee's consent, in the circumstances and within the limits set out in the next paragraph;

- 2) By prior request from the employer, with the employee's consent;
 - 3) At the initiative of the employee, with prior consent of the employer.
2. The employer may arrange the employee to work overtime, irrespective of his/her consent, in the following circumstances:
- 1) When cases of force majeure occur, provided that the daily working hours of the employee does not exceed sixteen hours;
 - 2) When the employer faces great loss, provided that the daily working hours of the employee does not exceed sixteen hours;
 - 3) When the employer faces an unpredictable increase amount of work, provided that the daily working hours of the employee does not exceed twelve hours.
3. The employer is obliged to give the employee a break to rest, pursuant to paragraph 3 of Article 33.
4. In the circumstances described in subparagraphs 2) and 3) of paragraph 1, there must be record attesting the consent.

Article 37 **Overtime remuneration**

1. The provision of overtime work pursuant to subparagraph 1) of paragraph 1 of the preceding article shall entitle the employee to receive the normal remuneration for the work performed plus an increase of fifty per cent.
2. The provision of overtime work pursuant to subparagraphs 2) and 3) of paragraph 1 of the preceding article shall entitle the employee to receive the normal remuneration for the work performed plus an increase of twenty per cent.
3. . The overtime remuneration, pursuant to the preceding paragraphs, shall not prejudice the employee's right to extra pecuniary compensations, especially for night work and shift work.

Article 38 **Compensatory rest**

1. In circumstances described in subparagraphs 1) and 2) of paragraph 2 of Article 36, the employee shall be entitled to an additional period of rest, paid according to general terms, with a length:

1) Not less than twenty-four hours if the period of work reaches its maximum daily limit;

2) Proportional to the period of work, if the period of work does not reach its maximum daily limit.

2. The preceding paragraph applies to the circumstances described in subparagraph 3) of paragraph 2 of Article 36 if the employee performs overtime work for two consecutive days.

3. The right to compensatory rest shall be exercised within fifteen days following the performance of overtime work on days chosen by the employee, through consultation with the employer.

4. The days on which the compensatory rest are taken shall be set by the employer in the absence of agreement between the employee and the employer.

SECTION II

Night work and shift work

Article 39

Night work

1. Work performed between 0:00 midnight and 06:00 a.m. shall be considered as night work.

2. The performance of night work shall entitle the employee to receive the normal remuneration for the work performed plus an increase of twenty per cent.

3. The employee shall not be entitled to the increase in remuneration referred to in the preceding paragraph if he/she has been hired specifically to perform a work schedule that includes night hours.

Article 40

Shift work

1. Work that must be performed by the employee without a fixed schedule and at different times shall be deemed as shift work.

2. When the business hours of the enterprise are longer than the maximum limits of the normal working hours, the employer shall have

the power to organize shift work and to arrange employees to perform the shift work, giving due consideration to the employee's interests and preferences.

3. The organization of shift work shall be subject to the maximum limits of the normal working hours and shall be in such manner as to guarantee the employee to have ten consecutive hours and a total of not less than twelve hours of rest per day, and to schedule the working time as continuous or discontinuous periods of work.

4. In the case where the working time is scheduled as discontinuous periods of work, there must be an interval of not less than two hours between consecutive periods of work, which shall not be counted in the normal working hours.

5. If the working time begins in a day and ends in the following day, the hours of work performed shall be counted in the normal working hours of each respective day.

Article 41 **Remuneration for shift work**

1. The performance of shift work shall entitle the employee to receive the normal remuneration for the work performed plus an increase of ten per cent.

2. The employee shall not be entitled to the increase in remuneration referred to in the preceding paragraph if he/she has been specifically hired to provide shift work.

3. The employee who has received monthly remuneration for performance of shift work shall not be entitled to any additional pecuniary compensation if the performance of shift work falls on a mandatory holiday in the same month, and the remuneration for shift work is ten per cent or more above the employee's basic remuneration, without prejudice to his/her entitlement to a paid compensatory rest day within thirty days of the mandatory holiday.

4. The employee who has received monthly remuneration for the performance of shift work shall not be entitled to any additional remuneration for performing night work in the same month.

SECTION III
Weekly rest

Article 42
Period of rest

1. The employee shall be entitled to a paid period of rest of twenty-four consecutive hours per week.

2. The weekly rest period may not have weekly frequency if it is agreed upon between the parties or the nature of the enterprise's activity makes it impracticable, in which case the employee shall be entitled to four paid rest days per four weeks.

3. The rest period shall be arranged by the employer at least three days in advance in accordance with the requirements of running the enterprise.

Article 43
Work on rest days

1. The employer may arrange the employee to work on rest days, irrespective of his/her consent, under the following circumstances:

- 1) When the employer faces a great loss or in cases of force majeure;
- 2) When the employer faces an unforeseen increased amount of work;
- 3) When the service rendered is indispensable to ensure the continued operation of the business.

2. Where the employee renders service in circumstances described in the preceding paragraph, he/she shall be entitled to an additional day of compensatory rest, to be designated by the employer within thirty days following the performance of work, as well as:

- 1) An additional day's basic remuneration, for employees who are paid by the month;
- 2) One day's basic remuneration in addition to the normal remuneration, for employees who are paid by actual time worked or output.

3. The employee may voluntarily request to work on a weekly rest day, whereby he/she shall be entitled to a compensatory day of rest, to be designated by the employer within thirty days following the performance of work.

4. In cases where the employee does not enjoy the compensatory

day of rest provided for in the preceding paragraph, he or she shall be entitled to:

1) An additional day's basic remuneration, for employees who are paid by the month;

2) One day's basic remuneration in addition to the normal remuneration, for employees who are paid by actual time worked or output.

5. In the circumstances referred to in paragraph 3, there must be a record attesting the voluntariness of the work performed on the weekly rest day by the employee.

SECTION IV Mandatory holidays

Article 44 Holidays

1. Mandatory holidays are as follows:

- 1) January 1;
- 2) Lunar New Year (the first, second and third day of the first month of the Lunar Year);
- 3) Cheng Ming Festival;
- 4) May 1;
- 5) The day after the Mid Autumn Festival;
- 6) October 1;
- 7) Chong Yeong Festival;
- 8) December 20.

2. The employee shall be permitted to suspend the performance of work on mandatory holidays, without loss of basic remuneration.

3. For the purposes of the preceding paragraph, the employee whose payment is determined by the actual time worked or by the actual output, shall be entitled to a day's basic remuneration calculated, respectively, pursuant to subparagraphs 2) and 3) of paragraph 1 of Article 61.

Article 45 Work on mandatory holidays

1. The employer may arrange the employee to work on a mandatory

holiday, irrespective of his/her consent in the following circumstances:

- 1) When the employer faces a great loss or in cases of force majeure;
- 2) When the employer faces an unforeseeable increased amount of work;
- 3) When the service rendered is indispensable to ensure the continued operation of the business.

2. The performance of work in the circumstances described in the preceding paragraph shall entitle the employee to a compensatory rest day, which shall be designated by the employer within thirty days following the performance of work and which may be substituted by agreement with the employer for a day's basic remuneration as compensation, as well as:

- 1) An additional day's basic remuneration, for employees who are paid by the month;
- 2) One day's basic remuneration in addition to the normal remuneration, for employees who are paid by actual time worked or output.

SECTION V

Annual leave

Article 46

Right to annual leave

1. The employee is entitled to a minimum of six working days of paid annual leave during the second year of service if the duration of the labour relation is more than one year.

2. If the duration of the labour relation is less than one year but more than three months, the employee is entitled to half a day's leave for every month of actual service in the second year of service and, when the number of days left in the remaining period reaches fifteen, it shall be counted as half a day toward the annual leave.

3. The annual leave shall be taken during the calendar year in which it falls due and may be accumulated up to two years by agreement between the parties.

4. The employee's right to annual leave shall not be affected by justified absences.

Article 47
Scheduling of annual leave

1. The annual leave shall be scheduled by mutual agreement between the employer and the employee.

2. In the case that no agreement is reached, the period of annual leave shall be determined by the employer, in accordance with the requirements of the enterprise's operation.

3. The period of annual leave shall be arranged at least thirty days in advance.

Article 48
Engagement in other activities during the annual leave

1. During the annual leave, the employee shall not engage in any other paid activities, except that he/she was already doing so before, or has obtained written permission of the employer.

2. In case that an employee violates the stipulations in the preceding paragraph, the employer shall be entitled to recover the amount equal to the basic remuneration corresponding to the period of annual leave.

Article 49
Violation of the right to annual leave

An employer who, for reasons imputable to himself or herself, impedes the employee to exercise his/her right to annual leave shall be liable for compensation to the employee, in an amount equal to three times the basic remuneration corresponding to the period of annual leave not taken.

SECTION VI
Absences

Article 50
Types of absences

1. Absences may be justified or unjustified.

2. The following are considered justified absences:

1) Three consecutive working days for the death of the employee's spouse or parent or a relative in direct line within the first degree of consanguinity;

2) Six consecutive working days for marriage;

3) Two working days for reasons of paternity or adoption;

4) Twelve working days for the father if the mother dies in childbirth or during the maternity leave;

5) Due to pressing need to provide assistance to a member of his household, subject to a maximum of twelve working days per calendar year;

6) Due to occupational accident or disease;

7) Due to accident or sickness, subject to a maximum of thirty consecutive days or forty-five nonconsecutive days for each calendar year;

8) A maximum of three months for disease related to pregnancy, confinement or involuntary abortion;

9) For reasons outside the employee's control, in particular, reasons of force majeure or complying with legal obligations;

10) For participation in work-related examinations on his/her own initiative;

11) Other absences approved by the employer in advance or subsequently;

12) Due to other circumstances defined by law as appropriate.

3. All periods of absence not provided for in the preceding paragraph shall be considered as unjustified absences.

4. The periods of unjustified absence shall not be counted towards the length of service of the employee.

Article 51

Notice and proof of justified absences

1. The employee must give the employer notice of a justified absence at least three days in advance or as soon as possible when the absence is unforeseeable.

2. In addition to the notice referred to in the preceding paragraph, the employee is obliged to provide proof justifying the absence to the employer.

3. In the absence of notice, proof or verifiable justification, the absences shall be deemed as unjustified.

Article 52

Absence for sickness or accident

1. During the period of absence for sickness or accident, the employee may engage in activities not in connection with medical treatment only if such activities are compatible with his/her state of health.

2. The absence for sickness or accident must be supported by medical certificate from a doctor with a license issued by the Macao SAR Government or from a doctor acceptable to the employer.

3. Except for cases of hospitalization, the employer may, during the employee's absence for sickness or accident, require the employee to take medical examinations to prove his/her state of health, conducted by doctors with a license issued by the Macao SAR Government, provided that the cost of such examinations is paid by the employer.

4. In cases where the medical examinations referred to in the preceding paragraph cannot prove his/her alleged state of health, the employee must be immediately informed of the result, whereupon his/her absence shall be considered as unjustified from the next day after receipt of such notice.

Article 53

Remuneration for absence

1. Absence is not remunerable, except as otherwise provided for in the next paragraph and by law, or by written agreement between the employer and the employee.

2. An employee who has completed the probationary period is entitled to six days of paid absence for sickness or accident in each calendar year.

3. In the event of paid absences, the failure to provide medical certificate or the breach of paragraph 1 of the preceding article shall entitle the employer to recover the paid basic remuneration.

SECTION VII
Maternity leave

Article 54
Period of maternity leave

1. A female employee is entitled to, for reason of childbirth, fifty-six days of maternity leave.

2. Of the fifty-six days of leave referred to in the preceding paragraph, forty-nine days must be taken immediately after the confinement, and the days left may be taken consecutively or separately, before or after the confinement, at the discretion of the female employee.

3. If the female employee intends to take part of her maternity leave before confinement, she must notify her employer of this intention at least five days in advance.

4. The employee must give her employer notice of the confinement as soon as possible, as well as the relevant proof by means of a medical certificate from a doctor with license issued by the Macao SAR Government or by a doctor acceptable to the employer.

5. In the following circumstances, a female employee shall enjoy equally the right to maternity leave with a duration of, respectively:

1) Fifty-six days in the case of a stillbirth;

2) In the case of involuntary abortion after three months of pregnancy, a minimum of twenty-one days and up to a maximum of fifty-six days, to be granted in the light of her state of health and in accordance with medical prescription with due proof.

6. If the child is born live but later dies during the period of maternity leave, the maternity leave shall be extended until ten days after the death of the child, in which case the female employee shall be guaranteed at least a total of fifty-six days of maternity leave.

7. In the absence of proof of facts referred to in paragraphs 4 through 6, the employer is not obliged to grant maternity leave to the female employee, nor to keep the job for the absent employee.

Article 55
Remuneration for the maternity leave

1. The female employee whose labour relation has lasted more than

one year on the day of her confinement is entitled to receive the basic remuneration corresponding to the period of maternity leave.

2. The female employee whose labour relation reaches one year during maternity leave is entitled to receive the basic remuneration corresponding to the remaining period of maternity leave after the completion of one year's service.

3. The time and form of payment of the female employee's remuneration during maternity leave shall be the same as during her normal working periods.

Article 56 **Guarantees of the female employee**

1. The female employee shall not be instructed to perform work incompatible with her physical condition during pregnancy and within three months after confinement.

2. The employer shall not unilaterally terminate the labour relation with a female employee during pregnancy or within three months after confinement, except with just cause.

3. In violation of the preceding paragraph the employer shall be liable to pay compensation to the fired female employee corresponding to fifty-six days of the basic remuneration, without prejudice to any other compensation owed to her.

4. The employee only enjoys the guarantees provided for in this article after having giving the employer notice of her pregnancy or confinement.

CHAPTER V **Remuneration for work**

Article 57 **Fixing the remuneration**

1. The employees are entitled to a fair remuneration for performing work.

2. The remuneration for work shall be fixed by agreement between the employer and the employee, giving due consideration to the quantity, nature and quality of work and the principle of equal pay for equal work,

without prejudice to compliance with legal provisions applicable to specific sectors of activity.

Article 58

Types

1. The remuneration for work includes the basic remuneration and variable remuneration.

2. The value of clothing, equipment and other accessories provided to the employee and used in the workplace shall not be considered as remuneration for work.

Article 59

Basic remuneration

1. The basic remuneration includes, inter alia, the following periodic remunerations:

- 1) The basic wage;
- 2) Overtime remuneration;
- 3) Extraordinary remuneration for night work or shift work;
- 4) Food allowance;
- 5) Family allowance;
- 6) Subsidies and commissions involved in the exercise of functions;
- 7) Charges levied by the employer to the customer as extraordinary accounts and subsequently paid to the employee;
- 8) 13th month pay or other periodic benefits of a similar nature.

2. Without prejudice to the provisions of subparagraphs 2) and 3) of the preceding paragraph and for the purposes of Article 61, overtime remuneration and the extraordinary remuneration for night work or shift work shall only be considered constituting part of the basic remuneration if their total sum during the last six months is not less than twenty per cent of the average monthly basic remuneration of the employee.

3. Without prejudice to subparagraph 8) of paragraph 1 and Article 76, 13th month pay or other periodic benefits of a similar nature are not included in the calculation of the basic remuneration under Article 61.

4. The basic remuneration may, by agreement between the employer and the employee, be calculated by the month, week, day, hour, actual

work performed or actual output where, in the absence of express agreement between the parties, it shall be calculated by the month.

5. The basic remuneration may only be reduced by written agreement between the parties, and will only take effect after the employer gives notice to the Labour Affairs Bureau within ten days of its conclusion.

6. The notice referred to in the preceding paragraph is intended for the Labour Affairs Bureau to be informed of the contents of the agreement, for the purpose of exercising its supervisory power provided for in Article 92.

Article 60

Scope of the basic remuneration

1. The basic monthly remuneration includes the basic remuneration for weekly rest days, mandatory holidays, annual leave and paid absence for sickness or accident, and shall not be subject to any deduction because of non-performing work during those periods.

2. The basic remuneration calculated according to the actual time worked or actual output includes the basic remuneration for the weekly rest days only, and the employer is obliged to pay additional basic remuneration for mandatory holidays, annual leave and paid absence for sickness or accident.

3. The basic remuneration comprising the types of remuneration referred to in the preceding paragraphs shall be calculated according to their respective provisions.

Article 61

Calculation of the basic remuneration

1. The average daily remuneration is calculated according to the following formulas:

- 1) Employees who receive a monthly remuneration: $Rb1 \div 30$;
- 2) Employees whose remuneration is determined by the actual time worked: $Rb1 \div Dt1$;
- 3) Employees whose remuneration is determined by the actual output: $(Rb1 + Rb2 + Rb3) \div (Dt1 + Dt2 + Dt3)$.

2. The average hourly basic remuneration is calculated according to the following formulas:

- 1) Employees who receive a monthly remuneration: $[(Rb1 \div 30) \div Ht]$;
- 2) Employees whose remuneration is calculated by the actual time worked or the actual output: $[(Rb1 \div Dt1) \div Ht]$.
3. For the purposes of the preceding paragraphs, the symbols shall mean:
 - 1) Rb1 – the employee’s basic remuneration in the month preceding the calculation month;
 - 2) Rb2 - the employee’s basic remuneration in the second month preceding the calculation month;
 - 3) Rb3 - the employee’s basic remuneration in the third month preceding the calculation month;
 - 4) Ht –the number of normal working hours per day in the month preceding the calculation month;
 - 5) Dt1 – the number of working days actually provided by the employee in the month preceding the calculation month;
 - 6) Dt2 – the number of working days actually provided by the employee in the second month preceding the calculation month;
 - 7) Dt3 – the number of working days actually provided by the employee in the third month preceding the calculation month.

Article 62
Period of payment

1. The employer is obliged to pay the basic remuneration on a regular and timely basis.
2. The remuneration shall become due on the expiry of the last day of the remuneration period agreed between the parties.
3. The basic remuneration shall be paid within nine working days, counting from the date when it becomes due.
4. The employer shall be held responsible for arrears when, for reasons imputable to the employer, the employee cannot have the amount of the basic remuneration on time.

Article 63
Place and form of payment

1. The remuneration shall be paid at the place of the employee’s

workplace in Macao SAR, unless otherwise agreed by the parties.

2. In the case that both parties agree that remuneration shall be paid in place other than the workplace, the employer is obliged to facilitate the movement of the employees needed for the receipt thereof.

3. The employer is prohibited from paying the remuneration in establishments where alcoholic drinks are sold or in casinos, save to people who work in those establishments.

4. The remuneration shall be paid in legal tender in Macao SAR.

5. Payment of the remuneration may be made by check of a banking institution in Macao SAR or by deposit into the account of the employee in a banking institution in Macao SAR, unless such methods involve serious difficulties for the employee in receiving the payment.

6. The employer is obliged to give the employee a pay slip containing:

- 1) Identification of the employer;
- 2) Name of employee and position;
- 3) Number of beneficiary of the Social Security Fund or any other numbers accorded to the employee under the law;
- 4) Period to which the remuneration corresponds;
- 5) Detailed items of the remuneration;
- 6) Deductions;
- 7) Net receivables.

Article 64

Compensation and deductions

1. The employer is forbidden to deduct from the employee's remuneration any debt, when existing, or make any discounts in the remuneration, except for:

- 1) Deductions for contributions to the Social Security Fund;
- 2) Deductions prescribed by law or by a final judicial decision;
- 3) Deductions for damages caused by the employee to the employer, by a final judicial decision;
- 4) Deductions for compensations the employee owed to the employer for termination of the contract, under paragraph 5 of Article 72;
- 5) Deductions for contributions to private pension funds with the employee's authorization;
- 6) Deductions for absence from work;
- 7) Deductions for damages caused by the fault of the employee in

property, equipment and utensils of the employer;

8) Advance payments on the account of the remuneration.

2. The deductions under subparagraphs 7) to 8) of the preceding paragraph shall not, either separately or accumulatively, exceed one sixth of the basic remuneration payable to the employee.

Article 65

Guarantees

1. The employee shall not transfer the claims on his/her remuneration, gratuitously or onerously, inasmuch as these claims are unattachable.

2. In the case where the Labour Creditor's Rights Protection Fund, according to law, guarantees the employee the payment of the employee's claims arising from the labour relation, the Fund shall be subrogated to the respective rights of the employee.^(*)

() As amended by Law No.10/2015.*

CHAPTER VI

Termination of the labour relation

Article 66

Forms of termination

The labour contract may be terminated by:

- 1) Revocation;
- 2) Rescission;
- 3) Expiry;
- 4) Denunciation.

Article 67

Revocation

1. The employer and the employee may terminate the labour contract by mutual agreement without notice and without having to pay any compensation, notwithstanding such agreement is not included in the labour contract.

2. The agreement on termination must be set down in a writing document, which must contain the date of signature and commencement of its effects.

Article 68 **Rescission**

1. Either the employer or the employee may rescind the labour contract with or without just cause.

2. In general, any fact or serious circumstance that makes it impossible to continue the labour relation shall constitute just cause for rescission of the contract.

Article 69 **Rescission with just cause on the initiative of the employer**

1. In the case of rescission of the contract with just cause, the employer must give the employee written notice of the decision to rescind the labour relation within thirty days after knowledge of the relevant fact, summarily describing the facts imputable to the employee.

2. The following facts, among others, are considered just cause for the employer to rescind the contract:

- 1) Willful disobedience to orders given by superiors;
- 2) Repeated lack of commitment in fulfilling duties inherent in the exercise of the employee's functions;
- 3) Chronic tardiness, leaving early or abandoning work during the working hours without authorization;
- 4) Unjustified absences from work causing directly serious harm to the enterprise or, irrespective of any harm, when the number of unjustified absences is greater than three consecutive days or five separate days in each year;
- 5) False statements regarding the justification of absences;
- 6) Abnormal reduced productivity intentionally caused by the employee;
- 7) Repeated provocation of disputes with other employees of the enterprise;
- 8) Acts of physical violence, insult or other abuse punishable under law

directed at the employer, superiors or other employees of the enterprise;

9) Severe harm to the enterprise's interests;

10) Violation of regulations on occupational hygiene and safety.

3. When there is just cause, the employer need not pay any compensation for rescinding the contract.

4. The lack of written notice referred to in paragraph 1 or lack of grounds in the just cause invoked shall be considered rescission of the labour relation without just cause, in which case the employee shall be entitled to compensation twice the amount provided for in the following article.

Article 70

Rescission without just cause on the initiative of the employer

1. The employer may rescind the contract at any time, irrespective of just cause, in which case the employee is entitled to a compensation for an amount equivalent to:

1) Seven days of the basic remuneration if the labour relation has duration above the probationary period and up to one year;

2) Ten days of the basic remuneration per year of service if the labour relation has duration above one year and up to three years;

3) Thirteen days of the basic remuneration per year of service if the labour relation has duration above three years and up to five years;

4) Fifteen days of the basic remuneration per year of service if the labour relation has duration above five years and up to seven years;

5) Sixteen days of the basic remuneration per year of service if the labour relation has duration above seven years and up to eight years;

6) Seventeen days of the basic remuneration per year of service if the labour relation has duration above eight years and up to nine years;

7) Eighteen days of the basic remuneration per year of service if the labour relation has duration above nine years and up to ten years;

8) Twenty days of the basic remuneration per year of service if the labour relation has duration of more than ten years.

2. For the purposes of the preceding paragraph, the length of service of the employee in the calendar year in which the labour relation is terminated shall be calculated by months, in the proportion of one twelfth for each month or period of less than a month but more than fifteen days.

3. The maximum amount of compensation referred to in paragraph 1 is limited to twelve times the basic remuneration of the employee in the month of the termination of the contract, irrespective of the duration of the labour relation.

4. For the purposes of paragraphs 1 and 3, the maximum amount of the basic monthly remuneration used to calculate the compensation is \$20,000.00 (twenty thousand patacas) unless a higher value has been agreed upon between the employer and the employee.^(*)

5. The amount provided in the previous paragraph shall be reviewed every two years, and can be adjusted according to economic development.^(*)

6. In the event of rescission of a fixed term contract without just cause by the employer before the expiry of the contract's term, the employer is obliged to pay the employee a compensation calculated according to the period between the date of the rescission and the expiry date of the contract mutually agreed upon, equivalent to three days of the basic remuneration for each month or period of less than a month.^(*)

7. In the event of rescission of contract without just cause by the employer within two years after notifying the Labour Affairs Bureau the agreement on reducing the basic remuneration pursuant to paragraph 5 of Article 59, the compensation pursuant to paragraph 1 of this article and paragraph 4 of Article 72 shall be calculated according to the basic remuneration earned by the employee before the conclusion of the aforementioned agreement.^(*)

(*) *As amended by Law No.2/2015.*

Article 71

Rescission on the initiative of the employee

1. In the case that there is just cause for rescinding the contract, the employee shall give written notice to the employer of the decision to terminate the labour relation within thirty days from the date of knowledge of fact, briefly describing the facts that are imputable to the employer.

2. The following facts, among others, are considered just cause for the employee to rescind the contract:

- 1) Repeated failure to pay the remuneration on the due date and in the form agreed on or provided for by law;
- 2) Wrongful infringement of the employee's rights and guarantees;
- 3) Culpable violation of the regulations on hygiene and safety at work;

- 4) Wrongful harm to the employee's economic interests;
 - 5) Offences against the employee's physical integrity, freedom, honour or dignity, committed by the employer or his legitimate representatives, which are punishable by law;
 - 6) Transfer of the enterprise;
 - 7) Significant alterations in the working conditions contractually established.
3. When failure to pay the remuneration, in whole or in part, occurs for two consecutive times within the period stipulated in Article 62, it shall be considered to have verified the circumstances set forth in subparagraph 1) of the preceding paragraph.
4. The opposition of the legal representatives of the minor employee under Article 32 shall be deemed as just cause for the rescission of the contract.
5. In the event of rescission of the contract with just cause on the initiative of the employee, the employee shall be entitled to compensation, calculated under the preceding article.
6. In the event of transfer of the enterprise, the responsibility for paying the compensation shall be assumed under Article 111 of the Commercial Code.
7. The lack of written notice referred to in paragraph 1 or the lack of justification in the just cause invoked shall be considered termination of the labour relation without just cause, in which case the employee is demanded to reimburse the employer an amount equal to the basic remuneration in respect of the notice period, calculated in accordance with the following article.

Article 72

Previous notice

1. In the event of rescission of the contract with just cause, the party that takes initiative shall not need to serve a previous notice on the other party for terminating the labour relation.
2. In the case of the termination of the contract without just cause, a notice of a period provided for in the contract must be given, whereupon the length of previous notice period prescribed for the employee shall not exceed that for the employer.
3. In the absence of contractual provisions on the length of the previous notice or when the length of previous notice provided for in

the contract is less than what is provided in this paragraph, the length of previous notice required to terminate a labour contract shall be:

1) Fifteen days in the case of rescission on the initiative of the employer;

2) Seven days in the case of rescission on the initiative of the employee.

4. Breach of the obligation of notice by the employer shall entitle the employee to compensation in lieu thereof corresponding to the basic remuneration in respect of the number of days lacking in the previous notice period, which will be counted towards his/her length of service.

5. Failure to comply with the obligation of notice by the employee shall entitle the employer to receive compensation corresponding to the employee's basic remuneration in respect of the number of days lacking in the previous notice period.

Article 73

Expiry

1. The labour contract expires in general terms, particularly in the following circumstance:

1) When the term of a term contract expires, or the object of the contract is fulfilled;

2) When the employee is incapable of work, especially on grounds of chronic illness or disability.

2. Without prejudice to paragraph 2 of Article 24, the termination of the labour relation due to the expiry of the contract shall not be subject to the obligation of previous notice or compensation in lieu thereof.

Article 74

Denunciation

The parties may denounce the labour contract during the probationary period, pursuant to the provisions in Article 18.

Article 75

Compensation for untaken holidays

1. At the end of the labour relation, the employee is entitled to receive:

1) The basic remuneration corresponding to the number of days of annual leave not taken in the previous calendar year;

2) The basic remuneration corresponding to the number of days of annual leave in the year of termination of the labour relation calculated in accordance with the provisions of paragraph 2 of Article 46.

2. If it is the first year of his/her employment, the employee is entitled to receive the basic remuneration corresponding to the number of days of annual leave calculated in accordance with subparagraph 2) of the preceding paragraph.

Article 76 **13th month pay**

At the end of the labour relation, the 13th month pay or other periodic benefits of a similar nature shall be calculated in proportion to the period of work provided.

Article 77 **Payment**

The employer shall pay in full amount, not later than nine working days after the termination of the labour relation, all remuneration payable to the employee, particularly outstanding remuneration, damages and other compensation owed to the employee.

Article 78 **Certificate of employment**

1. Upon the termination of the labour relation, the employee shall have the right to request the employer to issue a certificate of employment which contains the facts concerning the performance of work.

2. The abovementioned certificate must include:

- 1) Date of the beginning and end of service;
- 2) Nature of work or positions held;
- 3) Other data concerning the performance of service requested by the employee.

CHAPTER VII
Penalties

SECTION I
General Provisions

Article 79
Applicable regime

The sanctionary regime for offences arising from violation or breach of the provisions of this Law shall be governed by the provisions of this chapter, supplemented by the Penal Code, the Labour Procedure Code and the general regime for administrative offences.

Article 80
Performance of unfulfilled duty

In the case of an offense arising from nonperformance of obligation, the application of sanctions and the payment of fines shall not relieve the offender of his obligation to perform the unfulfilled duty, where it is still possible.

Article 81
Recidivism

1. Recidivism shall be any identical offense within one year of the judicial or administrative decision that ultimately determined the punishment or penalty.

2. In case of recidivism, the minimum applicable fine is increased by one-third.

Article 82
Responsibility of legal persons

1. Bodies corporate, although improperly constituted, associations with no legal personality and special committees shall be held responsible for offenses under this Law when committed by their organs or by the representatives in acts performed in the name and interest of that body.

2. The responsibility foreseen in the previous paragraph shall not apply when the agent acted against the orders or express instructions of the persons entitled to issue the orders.

3. The responsibility of the entities referred to in paragraph 1 shall not exclude the responsibility of the individual offenders.

4. Bodies corporate, although improperly constituted, associations with no legal personality and special committees shall be held responsible for any fines, damages, court costs and other payments incurred by their members who are convicted of offenses under the preceding paragraph.

Article 83

Liability for the payment of fines

1. Offenders, irrespective of a body corporate, although improperly constituted, an association with no legal personality, or a special committee, shall be held liable for the payment of fines.

2. If the offender is a body corporate, its administrators or anyone who represent it in any other way, shall be held jointly and severally liable for payment of the fine when they are judged responsible for the infringement.

3. Where the fine is applied to an association with no legal personality or to a special committee, the common assets of that association shall cover the fine and, should that not suffice, the assets of each of the partners or associates jointly and severally.

Article 84

Destination of fines

Fines for breach of this Law shall be credited to the Social Security Fund revenue.

SECTION II

Liability for contravention

Article 85

Contraventions

1. The employer shall be punished with a fine of \$ 20 000.00 (twenty

thousand patacas) to \$ 50 000.00 (fifty thousand patacas) for each employee involved for the following infringements:

- 1) Treat an employee or a job applicant in an unjustified discriminatory manner in violation of paragraph 2 of Article 6;
- 2) Violate the guarantees of employees under Article 10;
- 3) Employ minors to work in violation of paragraph 1 of Article 27 and Article 28;
- 4) Deny, in whole or in part, the employee's right to maternity leave, in violation of the provisions of paragraphs 1, 2, 5 and 6 of Article 54;
- 5) Arrange a female employee to perform work in violation of paragraph 1 of Article 56;
- 6) Deny, in whole or in part, the employee's right to pay, in violation of paragraph 3 of Article 62 and Article 64.

2. The employer shall be punished with a fine of \$ 10 000.00 (ten thousand patacas) to \$ 25 000.00 (twenty-five thousand patacas) for each employee involved for the following infringements:

- 1) Employ minors to work in violation of the provisions of Article 29;
- 2) Deny, in whole or in part, the employee's right to rest, in violation of Article 33, paragraph 3 of Article 36, paragraphs 1 to 3 of Article 38, paragraph 3 and 4 of Article 40, paragraph 1 of article 42, paragraph 3 of Article 43, paragraph 2 of Article 44, paragraphs 1 and 2 of Article 46, and Article 49;
- 3) Fail to perform the obligation for payment during the period of maternity leave, in violation of paragraphs 1 and 2 of Article 55;
- 4) Breach the rules on the place and form of payment of remuneration, provided for in paragraphs 1 to 5 of Article 63.

3. The employer shall be punished with a fine of \$ 5 000.00 (five thousand patacas) to \$ 10 000.00 (ten thousand patacas) for each employee involved for the following infringements:

- 1) Breach the obligation of compensation for the lacking period of previous notice under variable term labour contract, provided for in paragraph 3 of Article 24;
- 2) Breach the rules on calculating the remuneration under paragraphs 1 and 2 of Article 37, paragraph 2 of Article 39, paragraphs 1 and 3 of Article 41, paragraphs 2 and 4 of Article 43, paragraph 2 of Article 45 and Article 60;
- 3) Breach the obligation of payment for absences under paragraph 2 of Article 53;
- 4) Breach the obligation of compensation for untaken holidays under

Article 75;

5) Breach the obligation, in whole or in part, of timely payment of pecuniary benefits payable to the employee under Article 77.

Article 86
Voluntary Payment

1. Where the contravention involves the employee's claim, the defendant is excused from paying the fine if he/she, prior to the legal papers being submitted to the court, has settled the payment specified in the statement of settlement.

2. The preceding paragraph shall not apply when the defendant is a recidivist.

Article 87
Conversion of the fine into prison term

The penalty of fine provided in subparagraph 6) of paragraph 1 of Article 85 shall be convertible into prison term under the Penal Code.

SECTION III
Administrative Offenses

Article 88
Offenses

1. The employer shall be punished with a fine of \$ 5 000.00 (five thousand patacas) to \$ 10 000.00 (ten thousand patacas) for each employee involved for the following infringements:

1) Breach the obligation to issue certification under paragraph 3 of Article 13 and Article 78;

2) Conclude the labour contract with minors without verification in written form in violation of paragraph 2 of Article 17;

3) Fail to give the employee a copy of the written contract or agreement under paragraph 3 of Article 17;

4) Breach the obligation to arrange regular medical examinations for

the minor employees under paragraph 1 of Article 30;

5) Change the working time schedule without the employee's consent in violation of paragraph 2 of Article 34;

6) Arrange obligatory overtime work in cases other than those prescribed in paragraph 2 of Article 36;

7) Arrange obligatory work on rest days in cases other than those prescribed in paragraph 1 of Article 43;

8) Arrange obligatory work on mandatory holidays in cases other than those prescribed in paragraph 1 of Article 45;

9) Breach the obligation to issue a pay slip under paragraph 6 of Article 63.

2. The employer shall be punished with a fine of \$ 1 000.00 (one thousand patacas) to \$ 5 000.00 (five thousand patacas) for each employee involved for the following infringements:

1) Breach the obligation for data recording under paragraphs 1 and 2 of Article 13;

2) Conclude a fixed term contract lacking the mandatory particulars under paragraph 1 of Article 20;

3) Breach the obligation of notice under paragraph 2 of Article 30 and Article 31;

4) Issue a pay slip lacking the mandatory particulars under paragraph 6 of Article 63.

Article 89 Competency

The enforcement of fines due to administrative offences under this section shall belong to the Director of the Labour Affairs Bureau.

Article 90 Procedure

1. Where an act of administrative offense is verified, the Labour Affairs Bureau shall establish interrogation procedures and make prosecution of the said offence, and service notice whereof on the offender.

2. A 15-day period shall be prescribed in the prosecution decision, during which the offender may:

- 1) Rectify the offence committed, with the exception of recidivism;
- 2) Submit his/her defence.
3. After the expiry of the period referred to in the preceding paragraph:
 - 1) The proceeding shall be archived if the offence has been rectified or if there is proof of its non-occurrence;
 - 2) A fine shall be imposed if the offence persists or if there is no proof referred to in the preceding paragraph.

Article 91
Payment of fines

1. The fines must be paid within fifteen days from the date of notification of the penalty decision.
2. Where the offence has been rectified, the fines may be paid prior to notification of the penalty decision, and shall be settled according to the minimum limit set under this section.

CHAPTER VIII
Final and transitional provisions

Article 92
Supervision

The supervision of compliance with the present Law shall be within the purview of the Labour Affairs Bureau, without prejudice to legal responsibilities accorded to other entities.

Article 93
Application in time

1. The provisions of this Law shall be applicable to the labour contracts and agreements entered into before the entry into force of this Law, except where the conditions for the formal validity and the effect of facts or circumstances have completely ceased to exist before that time.
2. The clauses of contracts concluded before the entry into force of this Law shall be deemed to be automatically replaced by the mandatory

provisions of this Law, if these clauses are not permissible to the present Law.

3. The sanctionary regime established by this Law shall apply to offences committed after the entry into force of this Law.

Article 94
Amendment to Decree-Law No. 52/95/M of October 9

Article 15 of the Decree-Law No. 52/95/M of October 9, is amended as follows:

«Article 15
(Penalties)

1. The violation of the provisions of this legislation constitutes contravention and shall be punishable by a fine of \$ 20 000.00 (twenty thousand patacas) to \$ 50 000.00 (fifty thousand patacas) for each female employee involved in the infringement.

2. [repealed].

3. [repealed].

4. In case of recidivism, the minimum fine applicable shall be increased by one-third.

5. [...].»

Article 95
Amendment to the Labour Procedure Code

Articles 92 and 96 of the Labour Procedure Code approved by Law No. 9/2003, are amended as follows:

«Article 92
Remit the legal paper to court

1. Where the defendant has not paid the fine and has not been excused from the fine, the legal paper shall be remitted to court after the expiry of the deadline for voluntary payment of the fine.

2. [...].
3. [...].

Article 96
Voluntary payment at court

1. A voluntary payment of the fine may be requested by the defendant before the initiation of court hearing, which shall be settled with the minimum fine, plus the minimum court costs.

2. [...].
3. [...].
4. [...].»

Article 96
Repeals

All legislation that is contrary to the provisions of this Law shall be repealed, in particular:

- 1) Decree Law No. 24/89/M of April 3;
- 2) Decree Law No. 32/90/M of July 9;
- 3) Law No. 8/2000.

Article 97
Entry into force

This law shall enter into force as of January 1, 2009.

Approved on August 5, 2008.

President of the Legislative Assembly, Susana Chou.

Signed on August 12, 2008.

To be published.

Chief Executive, Ho Hau Wah.

[The English version of the present law is provided for reference only. Please note that only the Chinese and Portuguese versions published in the Macao SAR Gazette are official and are the sole authority of the law.]