

THE INDUSTRIAL TRAINING ORDINANCE, 1959
No. 48 of 1959

Date of Assent: 3rd November, 1959

Date of Commencement: By Notice

ARRANGEMENT OF SECTIONS

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AN ORDINANCE TO MAKE PROVISION FOR THE REGULATION OF THE TRAINING OF APPRENTICES AND OTHER PERSONS IN INDUSTRY

ENACTED by the Legislature of the Colony and Protectorate of Kenya, as follows:—

1. This Ordinance may be cited as the Industrial Training Ordinance, 1959, and shall come into force on such date as the Governor may by notice in the Gazette appoint. Short title and commencement.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“apprentice” means a person who is bound by a written contract to serve an employer for a determined period of not less than four years, or such lesser period as the Board shall determine under subsection (2) of section 20 of this Ordinance, with a view to acquiring knowledge, including theory and practice, of a trade in which the employer is reciprocally bound to instruct that person;

“Board” means the Apprenticeship Board constituted under the provisions of section 4 of this Ordinance;

“Controller” means the Controller of Apprenticeship appointed under section 3 of this Ordinance;

“indentured learner” means a person, other than an apprentice, who is bound by a written contract to serve an employer for a determined period of less than four years with a view to acquiring knowledge of a trade in which the employer is reciprocally bound to instruct that person;

“inspector” means an inspector appointed by the Minister under the provisions of section 23 of this Ordinance;

“labour officer” means any person appointed to the public service as the Labour Commissioner, a Deputy Labour Commissioner, an Assistant Labour Commissioner, a Senior Labour Officer or a Labour Officer;

“minor” means—

- (a) in the case of an African, a person under the apparent age of sixteen years;
- (b) in the case of a non-African other than a European, a person under the age of eighteen years; and
- (c) in the case of a European, a person under the age of twenty-one years;

“scheme” means a scheme made under section 21 of this Ordinance;

“trade” means a skilled manual occupation.

Appointment of
Controller and
Assistants.

3. (1) The Minister may, by notice in the Gazette, appoint a Controller of Apprenticeship and one or more other persons to be Assistant Controllers of Apprenticeship for the purposes of this Ordinance.

(2) Every Assistant Controller of Apprenticeship may, subject to the directions of the Controller, perform any act or discharge any duty which may lawfully be performed or is required to be discharged by the Controller under this Ordinance.

4. (1) The Minister may, by notice in the Gazette, establish an Apprenticeship Board for the purposes of this Ordinance; and such Board shall consist of a Chairman and not less than six other members appointed by the Minister.

Appointment of Apprenticeship Board.

(2) The Minister may appoint by name or by office a Secretary to the Board, who shall be an officer of the Board and who shall perform such duties as the Board may determine.

(3) The Chairman, or in his absence a member elected by the members present from amongst their number, shall preside at every meeting of the Board, and where a member, elected as aforesaid, presides, he shall, with respect to that meeting and any business transacted thereat, have all the powers of, and be deemed to be, the chairman of the Board under this Ordinance.

(4) The Chairman and members of the Board shall hold office for such period, not exceeding three years, as shall be specified at the time of their appointment, and on the expiration of such period shall be eligible for reappointment.

5. Without prejudice to the provisions of this Ordinance, the Board shall perform the following duties and functions—

Duties and functions of Board.

- (a) it shall at the request of the Labour Commissioner, and may of its own motion, investigate and make recommendations to the Labour Commissioner on any matters connected with this Ordinance;
- (b) it shall investigate any dispute or other matter arising out of a contract of apprenticeship or indentured learnership referred to it by the Controller, and shall endeavour to settle such dispute amicably;
- (c) it shall perform such duties and functions in regard to any other matter concerning apprenticeship or indentured learnership as may be prescribed.

6. (1) (a) No person shall employ an apprentice without having first obtained the written permission of the Controller so to do.

Permission to employ apprentices.

(b) The Controller's permission as aforesaid shall specify the maximum number of apprentices who may be employed at any one time by the person to whom the permission is given.

(2) No permission shall be given under this section unless the person applying therefor satisfies the Controller that his establishment offers reasonable opportunities for the proper training of the apprentice or the number of apprentices proposed to be employed by him.

(3) Any person aggrieved by any decision of the Controller under this section may appeal therefrom to the Labour Commissioner whose decision thereon, after consultation with the Board, shall be final.

(4) Any person who—

(a) employs an apprentice without having first obtained the written permission of the Controller to employ apprentices; or

(b) having obtained the written permission of the Controller to employ apprentices, employs at any one time a number of apprentices in excess of the maximum number specified in such written permission,

shall be guilty of an offence.

Permission
to employ
indentured
learners.

7. (1) (a) No person shall employ an indentured learner without having first obtained the written permission of the Controller so to do.

(b) The Controller's permission as aforesaid shall specify the maximum number of indentured learners who may be employed at any one time by the person to whom the permission is given.

(2) No permission shall be given under this section unless the person applying therefor satisfies the Controller that his establishment offers reasonable opportunities for the proper training of the indentured learner or the number of indentured learners proposed to be employed by him.

(3) Any person aggrieved by any decision of the Controller under this section may appeal therefrom to the Labour Commissioner whose decision thereon, after consultation with the Board, shall be final.

(4) Any person who—

- (a) employs an indentured learner without having first obtained the written permission of the Controller to employ indentured learners; or
- (b) having obtained the written permission of the Controller to employ indentured learners, employs at any one time a number of indentured learners in excess of the maximum number specified in such written permission,

shall be guilty of an offence.

8. (1) Any person who—

- (a) has attained the apparent age of fifteen years, and
- (b) has completed any period of compulsory education required by law, and
- (c) has, in the case of a trade in respect of which a scheme has been made, the qualifications prescribed under that scheme, and
- (d) has been certified fit as provided in section 10 of this Ordinance,

Who may bind himself as an apprentice or indentured learner.

may, subject to the provisions of subsection (3) of this section, bind himself as an apprentice or as an indentured learner in any trade.

(2) No person who does not qualify therefor under the provisions of subsection (1) of this section shall bind himself as aforesaid.

(3) A person who is a minor shall not bind himself as aforesaid except with the consent of his parent or guardian or, if there is no parent or guardian, with the consent of a District Officer or labour officer.

(4) A minor who, with such consent as aforesaid, binds himself as an apprentice or indentured learner shall be bound by the contract of apprenticeship or indentured learnership, as the case may be, throughout its currency notwithstanding that he may have in the meantime attained his majority.

9. (1) Any person who enters into a contract of apprenticeship or indentured learnership with an employer shall, where the parties to the contract so agree, deposit with such person as the Labour Commissioner may appoint

Security for apprentices or indentured learners.

for the purpose, such sum, being not less than one hundred shillings nor more than five hundred shillings, as the Labour Commissioner may approve.

(2) (a) In the event of an apprentice or indentured learner failing to comply with any of the terms and conditions of his contract of apprenticeship or indentured learnership, the sum (if any) deposited by him in pursuance of the provisions of subsection (1) of this section, or such part thereof as the Labour Commissioner may specify, shall, with the consent of the Labour Commissioner, be forfeited to his employer.

(b) Upon the expiration or termination of a contract of apprenticeship or indentured learnership, the sum (if any) deposited as aforesaid, unless forfeited under this subsection, shall, or such part thereof as has not been forfeited under this subsection shall, be repaid to the apprentice or indentured learner, as the case may be.

Medical examination of apprentices and indentured learners.

10. Every person before entering into a contract of apprenticeship or indentured learnership shall be medically examined at the expense of the employer by a medical practitioner; and a medical certificate to the effect that such person is fit to be employed in the trade concerned shall be obtained by the employer.

Registration of contracts of apprenticeship or indentured learnership.

11. (1) Every contract of apprenticeship or indentured learnership made after the commencement of this Ordinance shall be in such form as may be prescribed or, where no form has been prescribed, in a form approved by the Controller.

(2) An employer who enters into a contract of apprenticeship or indentured learnership with any person shall, within fourteen days thereafter, lodge, in such manner as may be prescribed, with the Controller for registration—

- (a) the contract of apprenticeship or indentured learnership;
- (b) a duplicate or copy thereof;
- (c) a further copy thereof for filing by the Controller;
- (d) the medical certificate obtained under section 10 of this Ordinance.

(3) Any employer who fails to comply with the provisions of subsection (2) of this section shall be guilty of an offence.

(4) No contract of apprenticeship or indentured learnership made after the commencement of this Ordinance shall be binding until it has been registered by the Controller.

(5) The Controller may refuse to register any contract of apprenticeship or indentured learnership if, in his opinion, it is not in the interests of the person who is the apprentice or indentured learner thereunder, or if it is not made in accordance with the provisions of a scheme; and he may, in coming to a decision under this subsection, have regard, in addition to any other circumstances, to such person's prospects of obtaining employment, at the expiration of such contract, in the trade in which he seeks to bind himself as apprentice or indentured learner.

(6) Any party dissatisfied with the refusal of the Controller to register a contract may appeal to the Labour Commissioner within thirty days of the date upon which the decision of the Controller is communicated to him and the Labour Commissioner's decision, after consultation with the Board, shall be final.

(7) In every case where the Controller registers a contract under this Ordinance, he shall—

- (a) endorse the particulars of registration thereon and on the duplicate or copy referred to in paragraph (b) of subsection (2) of this section and return the contract and the duplicate or copy thereof to the employer; and
- (b) file the copy referred to in paragraph (c) of subsection (2) of this section.

(8) The employer shall deliver the duplicate or copy which has been endorsed as aforesaid to the apprentice or indentured learner for him to keep.

12. (1) The rights and obligations of an employer under any contract of apprenticeship or indentured learnership may, with the consent of the apprentice or indentured learner thereunder and with the approval of the Controller, be transferred to another employer.

Transfer of contracts of apprenticeship or indentured learnership.

(2) The Controller may withhold his approval under this section if, in his opinion, the transfer is not in the interests of the apprentice or indentured learner.

(3) Subject to the provisions of subsection (5) of this section, no transfer of the rights and obligations of an employer under any contract of apprenticeship or indentured learnership shall take effect until the instrument of transfer—

- (a) has been reduced to writing and has been signed by or on behalf of the employer transferring such rights and obligations and the employer to whom such rights and obligations are being transferred and by the apprentice or indentured learner, as the case may be; and where such apprentice or indentured learner is a minor, has been signed also by his parent or guardian or, if he has no parent or guardian, has been signed by a District Officer or a labour officer; and
- (b) has been registered by the Controller in manner prescribed by subsection (4) of this section.

(4) The employer to whom the rights and obligations under a contract of apprenticeship or indentured learnership are being transferred as aforesaid shall, within one month of the date on which the instrument of transfer is signed by him, lodge, in such manner as may be prescribed, such instrument with the Controller for registration, and any such employer who fails so to lodge such instrument shall be guilty of an offence.

(5) (a) Where, under any contract of apprenticeship or indentured learnership, an apprentice or indentured learner is employed by two or more persons in partnership, unless the apprentice or indentured learner shall otherwise elect his contract of apprenticeship or indentured learnership shall not be terminated by reason only of the death or retirement of any partner if the business of the partnership is continued by the surviving or continuing partner or partners whether alone or jointly with another person or persons and the rights and obligations of the employer under such contract shall be deemed to be transferred to the person or partners continuing the business.

(b) Such person or partnership shall, within one month of the date of such death or retirement, lodge the contract, in the same manner as if it were an agreement to transfer, with the Controller, who shall certify thereon that the employer's rights and obligations under such contract have been transferred to such person or partnership under the provisions of this subsection.

13. (1) Without prejudice to the provisions of section 15 of this Ordinance, any contract of apprenticeship or indentured learnership may be terminated—

Termination
of contracts.

- (a) by mutual agreement of the parties thereto, with, in the case of an apprentice or indentured learner who is a minor, the same consent as is requisite for binding himself as an apprentice or indentured learner; or
- (b) by the Controller at the instance of any party thereto if he is satisfied that it is expedient so to do; or
- (c) by the Controller at the instance of the Board.

(2) The employer shall give notice to the Controller of the termination of any contract under paragraph (a) of subsection (1) of this section and any employer who fails to give such notice within a period of one month after the date of such termination shall be guilty of an offence.

(3) The Controller shall not exercise the powers conferred upon him by paragraph (b) of subsection (1) of this section unless he has given both parties to the contract an opportunity to be heard by, or to make representations to, him.

(4) The fact of termination shall be endorsed by the Controller upon the registered copy of the contract of apprenticeship or indentured learnership.

(5) (a) Any party dissatisfied with the action of the Controller in terminating a contract of apprenticeship or indentured learnership may appeal to the Labour Commissioner within two months of the date upon which the decision of the Controller is communicated to him.

(b) The Labour Commissioner shall consult the Board on the matter of the appeal and, in the event of his setting aside the decision of the Controller, he may make such direction with regard to the payment of any wages which would have been payable to the apprentice or indentured learner if the contract had not been terminated as he considers just and any sum so directed to be paid may be recovered by the apprentice or indentured learner from the employer as a civil debt recoverable summarily.

(6) The decision of the Labour Commissioner under subsection (5) of this section shall be endorsed by the Controller upon the registered copy of the contract of apprenticeship or indentured learnership.

(7) A contract terminated under this section shall be terminated for all purposes but without prejudice to any right of action which may have accrued before the date of such termination.

Enticement of apprentices or indentured learners.

14. Any person who induces or attempts to induce an apprentice or indentured learner to quit the service of his employer, or who employs a person who he knows is bound by a contract of apprenticeship or indentured learnership to any other person shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

Probationary period.

15. (1) Without prejudice to the provisions of section 13 of this Ordinance, the first four months of every contract of apprenticeship or indentured learnership shall be a period of probation at the expiration of which the contract may be terminated by either party; and any agreement to the contrary, whether expressed or implied, shall be null and void without, however, affecting the validity of any other part of the agreement of which it forms part.

(2) The employer shall give notice to the Controller of the termination of any contract under the provisions of sub-section (1) of this section, and any employer who fails to give such notice within a period of one month after the date of such termination shall be guilty of an offence.

Suspension of apprentice or indentured learner.

16. (1) If an employer is satisfied that an apprentice or indentured learner bound to him by contract under this Ordinance has committed a serious breach of the terms of such contract or of any conditions of apprenticeship or indentured learnership applicable to such apprentice or indentured learner he may forthwith suspend the apprentice or indentured learner.

(2) An employer who has suspended an apprentice or indentured learner shall report the matter in writing to the Controller within three days of the suspension and the Controller shall then investigate the matter and may confirm or set aside the suspension of the apprentice or indentured learner or vary the term thereof.

(3) Whether or not a complaint has been lodged by the employer, the Controller may order the suspension of an apprentice or indentured learner pending investigation and, if he does so, he shall report his action to the Board.

(4) Where the Controller sets aside the suspension of an apprentice or indentured learner the employer shall pay to the apprentice or indentured learner such wages as may have been withheld from him during the period of suspension.

(5) Any employer who fails to report the suspension of an apprentice or indentured learner in accordance with the provisions of this section shall be guilty of an offence.

17. (1) Every employer who employs an apprentice or indentured learner shall keep in respect of every such apprentice or indentured learner records of the remuneration paid to, and of the time worked by, every such apprentice or indentured learner, and such other particulars as may be prescribed.

Records to be kept by employers.

(2) Such records shall be kept in such form and manner as may be prescribed:

Provided that the Controller may, after consultation with the Board, in writing signed by him, authorize the keeping of such records in some other form if the records so kept will in his opinion enable him to ascertain therefrom the required particulars.

(3) Every person who employs or has employed an apprentice or indentured learner shall retain any record made in accordance with this section for a period of three years after the date of the last entry in the record.

(4) Every employer who fails to keep the required records in the proper form and manner and every employer and former employer who fails to retain any record made in accordance with this section for the required period shall be guilty of an offence.

18. Notwithstanding the provisions of any other law for the time being in force in the Colony, any term of a contract of apprenticeship or indentured learnership or any condition of apprenticeship or indentured learnership which—

Limitations in regard to method of payment, overtime and foreign service.

(a) provides that the whole or any part of the wages of an apprentice or indentured learner shall be based upon the quantity of work done, or

(b) requires an apprentice or indentured learner under seventeen years of age to work overtime, or

(c) provides for an apprentice or indentured learner to be employed outside the Colony, or, where the employer is the High Commission, outside the High Commission territories,
shall be null and void.

Certificate of apprenticeship and indentured learnership.

19. (1) The employer of an apprentice or indentured learner shall, at the request of the apprentice or indentured learner, on the satisfactory completion of the contract of apprenticeship or indentured learnership, make out a certificate of apprenticeship or indentured learnership, as the case may be, in such form and manner as may be prescribed, submit the same to the Controller for countersignature and, when countersigned, give it to the apprentice or indentured learner.

(2) If any employer fails to give such a certificate then, without prejudice to any penalty to which the employer may be liable in respect of such failure, it shall be lawful for the Controller, having first made such enquiries as may be necessary and possible, to give such a certificate himself.

(3) Any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence.

(4) Any person who knowingly gives to an apprentice or indentured learner a certificate under this section which is untrue in any material particular shall be guilty of an offence.

Miscellaneous powers of Controller.

20. (1) The Controller may, if he deems it expedient, order that the term of any contract of apprenticeship or indentured learnership be extended by not more than one day in respect of every ordinary working day upon which the apprentice or indentured learner bound by such contract was absent from work, and the contract period of apprenticeship or indentured learnership shall thereupon be deemed to be extended accordingly:

Provided that every eight hours of overtime, whether consecutive or not, worked by the apprentice or indentured learner shall for the purposes of this subsection be taken as an additional day of work during such apprenticeship or indentured learnership, but this proviso shall not apply so as to permit time lost on account of suspension under section 16 of this Ordinance to be made up.

(2) Where it is proved to the satisfaction of the Board that a person has undergone previous technical training relevant to the trade in which he desires to be apprenticed, the Board may authorize the Controller to reduce the period of apprenticeship to be served by such person to such lesser period as it shall determine.

(3) The Controller shall have all the powers of an inspector under this Ordinance.

21. (1) The Labour Commissioner may, after consultation with the Board and subject to the provisions of section 22 of this Ordinance, make a scheme or schemes for regulating the training of apprentices or indentured learners in any trade:

Training schemes.

Provided that no scheme shall revoke or vary any term of any contract of apprenticeship or indentured learnership registered before the date of making of such scheme.

(2) A scheme may, in respect of any trade to which it relates, specify—

- (a) the qualifications, including age and educational standard, required for apprentices or for indentured learners in that trade;
- (b) without prejudice to the provisions of subsection (2) of section 20 of this Ordinance, the period of apprenticeship or indentured learnership (which shall not exceed seven years in the case of apprenticeship and shall be less than four years in the case of indentured learnership) applicable to that trade;
- (c) the practical training which employers shall provide for apprentices or indentured learners in their employ in that trade;
- (d) the theoretical training in that trade which shall be provided by or at the expense of employers for their apprentices or indentured learners or which apprentices or indentured learners shall undergo, and the manner in which such training shall be provided or undergone;
- (e) the proficiency tests or examinations which apprentices or indentured learners in that trade shall be required to undergo from time to time;

- (f) the maximum number of ordinary working hours which apprentices or indentured learners in that trade may be required or permitted to work during any week or on any day, and the days on which, the hours on any day before or after which, and the intervals during which no apprentice or indentured learner in that trade may be required or permitted to work;
- (g) the maximum period of overtime which apprentices or indentured learners in that trade may be required or permitted to work on any day or during any specified period;
- (h) the minimum number of paid holidays to be allowed to apprentices or indentured learners in that trade during any year of their apprenticeship or indentured learnership;
- (i) the remuneration and other conditions which shall apply in respect of any period during which an apprentice or indentured learner in that trade is unable by reason of any condition of apprenticeship or indentured learnership or other specified circumstances to render service to his employer during ordinary working hours;
- (j) any other matter which in the opinion of the Labour Commissioner, after consultation with the Board, is necessary for the effective operation of the scheme.

(3) The Labour Commissioner may, in any scheme, provide that the conditions of apprenticeship or indentured learnership specified therein, or any of them, shall apply in respect of apprentices or indentured learners either generally or in any area of the Colony.

(4) Different conditions of apprenticeship or indentured learnership may be specified under this section in respect of different classes of employers or apprentices or indentured learners, and different specified trades; and in prescribing such different conditions the Labour Commissioner may apply any method of differentiation he may deem advisable.

(5) A scheme may be amended by a subsequent scheme or by an order made by the Labour Commissioner on the advice of the Board.

22. (1) Before making a scheme, the Labour Commissioner shall publish once in the Gazette and twice, with an interval of at least seven but not more than fourteen days between each publication, in a newspaper published and circulating in the Colony, a notice of his intention to make a scheme specifying a place where copies of a draft thereof may be inspected and a time, which shall not be less than thirty days from the first date of such publication, within which any objection to such draft scheme shall be sent to the Labour Commissioner.

Making of
schemes—
procedure.

(2) Every such objection shall be in writing and shall state—

- (a) the specific grounds of objection, and
- (b) the deletions (if any) from, or additions or modifications (if any) to, the scheme requested by the objector,

and the Labour Commissioner shall consider any such objection made by or on behalf of any person appearing to him to be affected, if such objection has been sent to him within the time specified as aforesaid, and he may, but shall not be bound to, consider any other objection.

(3) At the expiration of the time specified for the making of objections as aforesaid the Labour Commissioner may, after consideration in consultation with the Board of all objections which he is required by subsection (2) of this section to consider—

- (a) withdraw the draft scheme, or
- (b) make the scheme under section 21 of this Ordinance in the terms of the draft of the scheme published as aforesaid, or
- (c) make the scheme under section 21 of this Ordinance subject to such deletions from, or additions or modifications to, the draft of the scheme published as aforesaid as he thinks necessary:

Provided that no deletion from, or addition or modification to, any scheme shall be made under this paragraph if, in the opinion of the Labour Commissioner, such deletion, addition or modification effects important alterations in the character of the draft of such scheme published as aforesaid.

(4) The Labour Commissioner may amend a draft scheme otherwise than as permitted under paragraph (c) of subsection (3) of this section, but in such case all the provisions of this section shall apply to such amended draft scheme as if it were an original draft scheme.

(5) Where the Labour Commissioner makes a scheme, he shall publish it in the same manner as is provided in subsection (1) of this section for the publication of a notice of intention to make a scheme.

Appointment of inspectors.

23. The Minister may appoint any labour officer, or any person appointed to the public service as an Inspector of Factories, a Trade Testing Officer or a Labour Inspector, to be an inspector for all or any of the purposes of this Ordinance.

Powers of inspectors

24. (1) An inspector may—

- (a) at any reasonable time enter any premises in which he has reasonable cause to believe that an apprentice or indentured learner is or has within the previous six months been employed and take with him any interpreter or other assistant or a police officer;
- (b) examine, with respect to matters under this Ordinance, every person whom he finds on premises entered under the provisions of paragraph (a) of this subsection or whom he has reasonable cause to believe to be or to have been within the preceding six months employed on such premises, and require every such person to be so examined;
- (c) require any apprentice or indentured learner to appear before him at a time and place fixed by the inspector and then and there question that apprentice or indentured learner;
- (d) require the production or delivery up of any of the records required to be kept under this Ordinance or any rules made thereunder, and of any document relating thereto or relating, with respect to matters under this Ordinance, to the business of any person whom the inspector has reasonable cause to believe is or was within the preceding six months the employer of an apprentice or indentured learner;
- (e) examine and make extracts from and copies of any such documents produced or delivered up as aforesaid.

(2) Any person who—

- (a) refuses or fails to comply to the best of his ability with any requirement made by an inspector under this section; or
- (b) hinders an inspector in the exercise of his powers under this section,

shall be guilty of an offence:

Provided that no one shall be required under this section to answer any question or to give any information tending to incriminate himself.

(3) Any inspector exercising, or seeking to exercise any of the powers specified in subsection (1) of this section shall, on being required to do so, produce written evidence of his appointment.

25. Any member of the Board or any public officer who discloses to any person, except for the purposes of the performance of his duties or the exercise of his powers under this Ordinance, any information in relation to the financial affairs or plant or equipment of any person, which information was acquired in the performance of his duties or the exercise of his powers under this Ordinance, shall be guilty of an offence:

Disclosure of information an offence.

Provided that nothing in this section shall apply to the disclosure of information made for the purposes of any criminal proceedings which may be taken whether by virtue of this Ordinance or otherwise or for the purposes of a report of any such proceedings.

26. (1) Every contract of apprenticeship existing at the commencement of this Ordinance shall continue in force and be reduced to writing and executed and registered in accordance with the procedure laid down in section 11 of this Ordinance within four months of the date of commencement of this Ordinance.

Existing contracts of apprenticeship.

(2) It shall be the duty of every employer under a contract of apprenticeship existing at the commencement of this Ordinance to ensure that the requirements of subsection (1) of this section are duly fulfilled in relation to such contract, and every employer who fails in such duty shall be guilty of an offence but without prejudice to the continuance in force of the contract.

27. Where, under the provisions of subsection (1) of section 38 of the Bankruptcy Ordinance, a contract of apprenticeship or indentured learnership is discharged by the appren-

Bankruptcy.

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tice or indentured learner giving notice in writing to the trustee in bankruptcy to that effect, the trustee shall, within a period of one month of receiving such notice, notify the Controller thereof, and failure so to notify the Controller shall be an offence, without prejudice however to the complete discharge of the contract.

Penalties.

28. Any person who commits an offence under this Ordinance in respect of which no penalty is specially provided shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Rules.

29. (1) The Minister may make rules generally for carrying into effect the provisions of this Ordinance and, in particular, may make rules prescribing—

- (a) the form of any contract of apprenticeship or indentured learnership and the matters for which provision shall be made in such contract;
- (b) the manner in which educational standards or birth may be proved;
- (c) the nature of returns which employers may from time to time be required to furnish to the Controller and the period within which those returns shall be so furnished;
- (d) the procedure for the registration and transfer of contracts of apprenticeship or indentured learnership and for the notification of the expiration or termination of such contracts;
- (e) the form and manner in which certificates of apprenticeship or indentured learnership are to be issued by employers;
- (f) all or any matters which by this Ordinance are required or permitted to be prescribed.

(2) Different rules may be made under subsection (1) of this section in respect of different classes of employers or apprentices or indentured learners and of different trades and in making such rules the Minister may apply any method of differentiation he may deem advisable.

Exemptions.

30. (1) The Labour Commissioner, with the approval of the Board, may, in the case of any particular contract, exempt any person from any provision of this Ordinance or of any rule made thereunder or from any condition of apprenticeship or indentured learnership contained in any scheme.

(2) Any such exemption may at any time be withdrawn by the Labour Commissioner with the approval of the Board.

31. Any labour officer may institute proceedings in respect of any offence under this Ordinance or any rules made thereunder and may appear and prosecute in such proceedings.

Institution of proceedings.

32. This Ordinance shall bind the Crown.

This Ordinance to bind the Crown.

33. Section 38 of the Bankruptcy Ordinance is amended by inserting immediately after the word "may," which appears in subsection (2) thereof, the words "subject to the provisions of section 12 of the Industrial Training Ordinance, 1959."

Amendment of Cap. 30.

34. (1) Sections 22 to 31 inclusive (including the heading "Apprenticeship Contracts") and paragraph (q) of subsection (1) of section 87 of the Employment Ordinance are repealed.

Repeal, amendment and application of certain provisions of Cap. 109.

(2) Section 2 of the Employment Ordinance is amended by deleting the definition of "approved employer", which appears therein.

(3) In proceedings under section 59 of the Employment Ordinance concerning a contract of apprenticeship or indentured learnership, the Controller shall be entitled to be heard on the matter before the court.

(4) The provisions of paragraph (b) of subsection (1) and of subsection (2) of section 68 of the Employment Ordinance shall not apply in relation to contracts of apprenticeship or indentured learnership.

35. The Employment of Women, Young Persons and Children Ordinance is amended—

Amendment of Cap. 111.

(a) by substituting for section 5 thereof a new section as follows—

Restriction on employment of children in attendance on machinery, etc.
No. 48 of 1959.

5. (1) No child, other than one serving under a contract of apprenticeship or indentured learnership in accordance with the provisions of the Industrial Training Ordinance, 1959, shall be employed in any undertaking in attendance on any machinery.

(2) No child shall be employed in any open-cast workings or sub-surface workings which are entered by means of a shaft or adit.; and

(b) by substituting for the words "Subject to the provisions of the Employment Ordinance relating to apprenticeship contracts", which appear in section 18 thereof, the words "Subject to the provisions of the Industrial Training Ordinance, 1959, relating to contracts of apprenticeship or indentured learnership".