



RUMPHI DISTRICT COUNCIL

**DISTRICT TENANCY LABOUR SENSITIZATIONS MANUAL FOR RUMPHI
DISTRICT COUNCIL**

Written by

**KALANI MBEYE MALEMA,
DISTRICT LABOUR OFFICER,
P.O. BOX 55,
RUMPHI.**

Tell: (265) 01372238 (*office*); (265) 0999473169 (*cell*)

TABLE OF CONTENTS

Table of Contents	ii
Background Information	iv
Acknowledgements	v
Abbreviations	vi
1. Introduction	1
2. Objectives of Tenancy Labour Sensitizations	2
2.1. Overall Objective.....	2
2.2. Specific Objectives	2
3. Definitions	2
3.1. Meaning of the terms Landlord and Tenancy.....	2
3.2. Concept of Sensitization	2
3.3. Meaning of Tenancy Labour Sensitization.....	3
4. Rumphi District Labour Office	3
4.1. Functional duties of Rumphi District Labour Office.....	3
4.2. Role of Labour Office during dispute handling between Landlords and Tenants.....	3
5. Contract of Employment	4
5.1. Legal Requirements of any Employment Agreement (Contract).....	4
5.2. Types of Employment contracts.....	5
5.2.1. Contracts applicable for any Employment.....	5
5.2.2. Forms of Contracts applicable for Tobacco Landlords and their Tenants.....	6
5.3. Contents (Terms) of Employment Contract.....	7
5.4. Tenancy Employment Agreement form.....	9
6. Labour Officers and the Law of Tenancy	10
6.1. Powers of Labour Officers regarding Tenancy disputes.....	10
6.2. The pending Tenancy Labour bill of 2001.....	10
7. Attestation of Contracts	10
7.1. Meaning of Attestation of Contract.....	10
7.2. Who can attest a Labour Contract?	11
7.3. Duties and Powers of an Attesting Officer.....	11
8. Tenancy Labour disputes	11
8.1. Labour cases normally handled by Rumphi District Labour Office.....	11
8.2. Sources of complaints (Labour cases) at Rumphi Labour Office.....	11
8.3. Common causes of Tobacco Tenancy disputes in Rumphi District.....	12
8.4. Procedural steps by Rumphi Labour Office during dispute handling between the Landlord and the Tenant.....	12
8.5. What Labour Office cannot do for the Tenancy complainants at Labour Office and at their workplaces.....	14
9. Duties of Land Lord and Tenant	14
9.1. Duties of Tenant to the Landlord.....	14
9.2. Duties of Landlord to the Tenant.....	14

10.	Tenancy disputes and jurisdiction of other institutions other than Labour Office.....	15
10.1	The Police.....	15
10.2	Tobacco Tenants and Allied Workers` Union (TTAWU).....	15
10.3	Tobacco Association of Malawi (TAMA).....	15
10.4	NASFAM.....	16
10.5	The Courts	16
10.6	Agricultural Research and Extension Trust (ARET) and other Society Tobacco Clubs.....	16
10.7	The Industrial Relations Court (IRC)	17
11.	Termination of Tenancy Employment.....	17
11.1	Grounds of termination by the tenant.....	17
11.2	Grounds for termination by the tenant	17
12.	General Guidelines on sale of produce and permissible deductions, Regarding Tenancy Employment.....	17
13.	Labour Inspections	18
13.1	Labour Inspectors.....	18
13.2	Labour Inspections Conventions.....	18
13.3	Basic set of functions covered by Labour inspection.....	18
13.4	Functions of Labour Inspectors.....	18
13.5	Obligations of Labour Inspectors.....	19
13.6	Relationship between Labour inspection and Industrial relations.....	19
13.7	Labour Inspections in Tobacco farms and Estates.....	20
14.	Minimum Conditions of Employment.....	20
14.1	Minimum Wage and Housing Allowance.....	21
14.2	Working Hours.....	22
14.3	Overtime payments	22
14.3.1	Ordinary Overtime.....	22
14.3.2	Day-off Overtime.....	22
14.3.3	Holiday Overtime.....	22
14.4	Weekly Rest period	23
14.5	Minimum Employment Age.....	23
14.6	Annual Leave.....	23
14.7	Sick Leave	23
14.8	Maternity Leave	24
14.9	Workers Compensation	24
14.10	Public Holidays	25
14.11	Fundamental Work Principles.....	25
15.	Appendices.....	26
15.1	Appendix 1: Government approved Barley (Bale) Tobacco prices list when purchasing from Tenants	26
15.2	Appendix 2: Yearly Tenant Inputs pricing by area	27
15.3	Appendix 3: Tenancy Employment Agreement form	30
15.4	Appendix 4: List of prominent issues for discussion during Employment engagement	31
16.	References.....	32

BACKGROUND INFORMATION

The work of Tobacco growing has expanded steadily in Rumphi since the realisation by most Rumphi small scale farmers that Tobacco is a major cash crop with greatest opportunity of income generation for their families as compared to that of any other commercial crop. This has resulted into many farmers venturing into the business of Tobacco farming (growing). These farmers range from individual farmer to those of corporative societies (Tobacco growing clubs). This is a good development for Malawi's economic growth since it is a profitable economic activity.

However, any form of development is associated with some remarkable impacts to an area which could be both positive and negative ones. Thus the increase in Tobacco farmers and indeed Tobacco Employers in Rumphi district has among other things affected the service delivery of Rumphi Labour Office. There are more Tobacco farmers employing more and more Tobacco tenants from within Rumphi district as well as from other districts of the country during every growing season of the year. Most of these farmers and tenants do not know minimum conditions of employment provided in the employment Act No.6 of 2000 and indeed those in other Labour Law Acts. Furthermore, these people do not know forms of employment agreements (contracts) that are most suitable for Tobacco growers and their tenants nor do they know what must be done before or soon after employment engagement between employer and employee. Consequently, there are so many Labour disputes caused on tobacco farms which are lodged / reported to Rumphi Labour Office for conciliation. Tenants are mainly the most victims of such disputes. For three months, that is, from January to April, 2009, Rumphi District Labour Office received and registered a total of 134 labour complaints for settlements. Seventy-six of these complaints, a figure that represents 58 % of the total cases, were tenant cases.

Tobacco farm tenants with complaints flock to Rumphi Labour Office nearly every working day. These Tenants usually come with their families. Here I mean grieved male Tenants come to lodge their complaints while accompanied by their wives and children having carried all their belongings which are usually wrapped blankets, clothes and cooking pots and plates. When interviewed during their case presentations, Tenants tell Labour Officers that they have no food to eat; that they be provided with transport; that they have nowhere to be accommodated and that they declare before Labour Officers never to go back to their employers or places of employment pending investigation of their complaints. This to Labour Office implies that such grieved Tenants when coming to Labour Office hope that they will be provided by Labour Office with everything within their expectations i.e. food and accommodation in addition to handling their complaints. Furthermore, some of them expect to be paid, immediately at the time of lodging complaints at Labour Office, their claimed dues from their employers. It is this situation that compounds Tenants' problems thereby making them in great sufferings before settlements of their cases. Therefore in order to simplify their compounded problems, there is need for Tobacco farm Tenants to be sensitized on the role of Labour Office while handling their disputes with their employers as well as on some Labour Law issues regarding their employment to avoid or minimise their wrong expectations that help complicate their problems.

Andrew Misomali
DISTRICT COMMISSIONER

ACKNOWLEDGEMENTS

In the first place, I would like to thank all those people and government departments contacted during the course of organizing information for this manual book from Rumphi district assembly. In this regard, special thanks should go to those heads of government institutions which are among the list of 16 - Body of case handling institutions (BCHI) who fuelled my plan to have this manual book written and encouraged me to speed up the process of writing as quickly as possible. The increasing number of suffering Tenant complainants flocking at Rumphi Labour office nearly every working day was one of the stimulants that marked the starting point for the writing of this manual.

Secondly, I would like to thank and acknowledge other various contributors, who rendered their assistance in various capacities to me in the course of writing this manual book of which without them, this manual book would not have been compiled. Antony Kalagho and Lydon Mkandawire both Labour officers for their trouble they went through to help me get the relevant information. Mrs LL Mhone (nee Silungwe) for her typing work, well done.

Finally, I am also grateful to express my heartfelt gratitude to Nkhamanga photocopying business centre for its work of reduplication of more book copies. My thanks should also go to some institutions like TAMA and others in their various capacities whose work has been included in the appendices at the end of this manual book.



Kalani Mbeye Malema
DISTRICT LABOUR OFFICER

ABBREVIATIONS USED

ARET	Agricultural Extension Trust
BCHI	Body of Case Handling Institutions
ECAM	Employers Consultative Association of Malawi
IRC	Industrial Relations Court
NASFAM	National Smallholders Farmers Association of Malawi
RDC	Rumphi District Council
SCA	Supreme Court of Appeal
TA	Traditional Authorities
TAMA	Tobacco Associations of Malawi
TEAF	Tenancy Employment Agreement Form
TOAWUM	Tobacco Allied Workers Union of Malawi
TTAWUM	Tobacco Tenants and Allied Workers Union of Malawi

1. INTRODUCTION

Ministry of Labour and indeed Rumphi District Labour Office has a responsibility within its core functions to settle by mediation and conciliation all labour disputes between employers and employees. Disputes involving Tobacco tenants are also included. Furthermore, the Office has a responsibility to prevent / minimise possible occurrence of such labour disputes at the source by conducting labour inspections in various places of work. The latter one acts as both a preventive measure as well as a long term solution to labour disputes when done effectively.

The settlement of labour disputes as they come at office is mostly a remedy to resolving the already occurred disputes and not an effective preventive measure, thus there is need for more labour inspections to be conducted in various workplaces. However, labour inspections take a bit formal and detailed approach such that it may not be effectively applicable to numerous individual tobacco farmers out there. Thus the general Tobacco Farm Labour Sensitizations may be the best to provide solutions with impact to a greater population of employers and employed tenants. Strategically the effectiveness of these sensitizations would be enhanced if they are conducted in the months of October, September and November here in Rumphi. These are the months during which tobacco growing preliminary activities take place. These are activities like employment process of tenants, preparations of tobacco nurseries etc.

With regard to the above statements of reality concerning Tobacco tenants in Rumphi district, Rumphi Labour office has compiled a booklet titled “*Tenancy Labour Sensitizations Manual*”. The booklet is to be used by Labour Officers to carry out their sensitization meetings in various places of tobacco work. The booklet, among other issues, contains the following topics: Contract contents; Grounds of termination by the Tenants; Grounds for termination by the Tenant; Labour Inspections in Tobacco farms and estates; Terms (particulars) of employment agreement (Contract); Legal requirements of any employment agreement; types of employment contracts applicable for any employment and Contract forms suitable for Tobacco growers (Landlords) and their Tenants i.e. forms of Contracts of Tobacco tenancy agreements; minimum wages and housing allowances; Tobacco tenancy dispute handling procedures; role of Rumphi Labour office during disputes between employer and employee; role of TAMA and other community bodies affiliated with the handling of Tobacco tenancy disputes; nature of labour complaints handled at Rumphi labour office; common causes of Labour disputes; sources of Labour complaints; and appendices / schedules for tables and designed and adopted forms.

2. OBJECTIVES OF TENANCY LABOUR SENSITIZATIONS.

2.1. Overall Objective

The general (Overall) objective of the intended / planned Tenancy Labour sensitizations in Rumphu District from months of August to December each year is to ensure that Tobacco farmers (the Landlords) and their workers (the Tenants) become knowledgeable on basic Employment Laws required by them to follow in order to reduce their Labour disputes being reported to Labour Office significantly by the year 2011 from now.

2.2 Specific Objectives

- To make Tobacco Landlords and Tenants become aware on the role of Labour Office during disputes handling process.
- To help Tobacco farmers and their working tenants understand the existing Labour Laws safeguarding their employments.
- To help Tenants know their Labour rights while in their Employment with their Landlords
- To make Landlords and Tenants know the correct procedures of lodging their complaints to Labour Office.
- To equip the Landlords and Tenants with knowledge of suitable forms of Tobacco employment agreements to be used for Tenancy System of work.
- To train Landlords and Tenants on advantages of utilizing local existing structures (bodies) to handle their Labour disputes before reporting them to Labour Office.
- To reduce the number of Tenancy Labour disputes reported to Labour Office by at least 50% by January, 2011.

3. DEFINITIONS

3.1. Meaning of the terms Landlord and Tenancy.

Landlord means a male person who owns a piece of land or building for the purpose of renting it out to a tenant. Whereas, a female person owning such a piece of land is called a Landlady. **Tenancy** means the act or use of a Landlord's or Landlady's rented land or farm. And a person who uses such rented land is called a **Tenant**. In this manual, Landlord shall mean either a male or female land holder.

In context of this manual book, the word Landlady is represented by the word landlord throughout. Hence Landlord means Tobacco Landlord with a piece of land (farm) on which a Tenant grows and takes care of tobacco crop. However to some extent cases it means other crop Landlords. Similarly, the word Tenant shall mean a Tobacco Tenant but also with exceptions to some extent cases to mean other crops Tenants.

3.2 Concept of Sensitization

To sensitize is to make somebody or something sensitive to someone or something. To be sensitive means to have intelligent awareness or sympathetic understanding of

something or on something (Oxford English Dictionary). Thus the concept of sensitization in this manual entails the whole act of telling to make Landlords / Tenants for example, plus any other persons know and understand what is legally required to be done to avoid offences related to Tobacco works and Employment.

3.3. Meaning of Tobacco Labour Sensitization

Tenancy Labour Sensitizations mean all the noble action / work to be performed by telling to make all responsible Tobacco Landlords and their Tenants as well as other people involved to know and become well informed on what is legally required to be done by them to avoid or reduce occurrence of conflicts among themselves regarding Labour and Tenancy employment.

4. RUMPHI DISTRICT LABOUR OFFICE

4.1. Functional duties of Rumphi District Labour Office

Rumphi District Labour office performs the following functional duties to the general public:

- 4.1.1. It assists in the development and maintenance of harmonious relationships between employers and employees.
- 4.1.2. It encourages the establishment of sound Industrial relations machinery for joint consultation and collective bargaining in big workplaces like those of Mchenga Coal Mines and of Nkhoso General Estates in Rumphi District.
- 4.1.3. It carries out the settlement of complaints and disputes by investigation, mediation and conciliation.
- 4.1.4. It ensures by inspections that the provisions of labour legislation is observed.
- 4.1.5. It carries out the processing of claims for workers compensation.
- 4.1.6. It assists job seekers in finding employment and Employers filling staff vacancies by way of job canvassing and use of other strategies.
- 4.1.7. It enforces observance of statutory minimum wages and conditions of employment.
- 4.1.8. It advises Rumphi District Assembly on matters of labour issues in the district.

4.2. Role of Labour office during dispute handling between Landlords (employers) and Tenants (Employees)

- At Labour Office, a tenancy complaint is either received personally or in writing. If in writing the complainant is replied and asked to come in person.
- It could also be received as a referred case from other institutional Offices such as the Police, the Court, the Assembly Secretariat Office, employers' consultative association of Malawi (ECAM), Trade Unions. Etc.

- Labour Office screens the received case and if it finds that the case is not within its jurisdiction, it advises the complainant to take the matter to another institution appropriately.
- If Labour Office finds that the received case is of the type it deals with, then a letter is written to the Employer immediately to respond to allegations within two weeks (i.e. 14 days) **or** an employer is immediately served with a call-slip letter (through the tenant if possible) calling him / her to call / report at Labour Office for joint discussion over the lodged claim against Employer.
- If the Employer is written a letter and no response comes out, then Labour Office submits reminders for at least two times and thereafter a case can be referred to IRC / Magistrate Court. The Law provides that a case should be handled and dealt with by Labour Office within 30 days only from the time it was received before it is being referred out (Section 62 (3) and Section 64 (1) of Employment Act No. 6 of 2000).
- For some other tenancy cases, Labour Office conducts follow-ups where discussions may be conducted right at Workplace. In Rumphi district, this is the mostly used option for most tenancy cases that need Labour Officers to go and determine value of unprocessed tobacco crop in the field or in the tobacco burns (shades). Section 22 (2) of the pending Tenancy Labour bill allows Labour Officers to determine value of unprocessed crop).
- Labour Office to settle tenancy cases shall rely mostly on the terms of Employment Contract entered (agreed upon) between the Landlord and the Tenant in addition to existing Labour Laws.
- In some case, Labour Office uses Government approved Tobacco Price list and Tobacco Tenants input charges for the current year provided by Tobacco Association of Malawi (TAMA) to settle tenancy cases that involve disagreements over wages and prices of some farm inputs used and of Tobacco produce itself.

5. CONTRACT OF EMPLOYMENT

5.1. Legal requirements of any employment agreement (Contract).

Employment Act No. 6 of 2000 – Section 27 provides that every Employer shall give to each employee a written statement of particulars of Employment.

- Subsection 2 (b) states that an employee employed after the commencement of this Act, should be provided with statement of particulars of employment by employer within one month of his/her reporting for work.

- Subsection 3 provides for the contents of contract that should be included in a statement of particulars of employment. Thus particulars of employment should include;
 1. Names of Employee and of the Employer
 2. Contract commencement date
 3. Rate of remuneration and the method of calculating remuneration.
 4. The intervals at which remuneration is paid.
 5. The nature of work to be performed
 6. Normal hours of work
 7. Form of employment agreement used
 8. Any provision for the termination of contract and;
 9. All contracts must be in writing.

Section 8 of Tenancy Labour Bill of 2001 provides that contract of employment shall be in accordance with Tenancy Labour Act. And a contract of Employment under Law of Contract provides for a signed employment agreement between employer and Employee. Thus any employment agreement to be binding must be signed by both parties – the employer and the employee. **This means that any agreement will be invalid if signed by one party only (i.e. either by the employer alone or by the employee alone).**

More readings on Legal employment requirements could be accessed from the following references.

- Section 31 of the constitution of the Republic of Malawi provides for fair Labour practices.
- Section 6 of the Employment Act No. 6 of 2000 provides for equal pay for work of equal value.
- Section 5 of the Employment Act No. 6 of 2000 provides for prohibition of discrimination.
- Section 43 of Employment Act No 6 of 2000 provides for Seasonal Employment and all those,
- International Conventions and recommendations on Employments that are ratified by Malawi Government.

5.2. Types of Employment Contracts

5.2.1. Contracts applicable for any employment

- Contract for unspecified period of time
- Contract for specific task
- Contract for specific period of time

These three types of Contracts are provided by Section 25 of the Employment Act No.6 of 2000.

Sub types of Contracts applicable for Tobacco growers and their Tenants. These Sub-types are also described as forms of Contracts of Tobacco growing Agreements.

5.2.2. Forms of Contracts applicable for Tobacco Landlords and Tenants in Rum phi district.

- Tenancy Agreement System
- Average Agreement System
- Land / Gafa contractual Agreement System.

Main features of each of the three forms of contracts of Tobacco agreements.

➤ **Tenancy Agreement System**

- Tenant is provided with a measurable size of Land e.g. **0.5** hectares of land or **1** hectare or **1 and 1/2** hectares of Land to grow.
- Tenant is supplied with every farm inputs required for growing the crop on the allocated piece of Land e.g. fertilizers, Pesticides chemicals, seeds etc.
- Landlord keeps records of Employee's particulars, records of Commodities and Prices loaned / advanced to Tenant, records of farm inputs supplied etc.
- Only commodities / Cash advanced to Tenant are deductible after Sales and nothing else.
- At the end of the season, Tenant sells all his / her crop produce to the Landlord at government approved Prices.
- Tenant's total running expenses for the family advanced by the landlord shall be deducted from his/her total sales and then the difference shall be paid to the tenant as his/her income wage or profit or carry home income.

NB/ This system above is commonly practiced in big tobacco estates like those of Nkhoz, etc,

➤ **Average Agreement System.**

- Tenant is supplied with every farm inputs required for growing Landlord's tobacco crop during the season.
- Every other feature applied to Tenancy agreement system above is also applicable with average agreement System apart from those of Land being allocated to the Tenant and features of produce sale modalities.
- Landlord assigns Tenant to produce for example 10 bales of barley (bale) tobacco of 100 kg each at the end of the growing season to be given a total of say MK80, 000.00 before deduction of tenant's total advances.
- In other cases, the Landlord and Tenant agree that after tobacco sales at the Auction floors, the Landlord shall get 70 % and Tenant shall get 30 % of the sale sheet net pay for the Landlord.
- The other common alternative of Average agreement system is that at the end of the growing season, tobacco is graded and weighted according to their grades. There after total wage bill for the Tenant shall be calculated according to the quantities of his/her tobacco produce at each grade using government approved prices of each grade per Kg.

NB/ The forms of Average agreement system are mostly preferred and used by most Individual Tobacco farmers with their Tenants in Rumphu district.

➤ **Land / Gafa Contractual Agreement System**

- Tenant is allocated with a Land for example **1** hectare or **1/2** hectares of land to grow tobacco to be given (paid) an agreed fixed sum of money for example MK50,000 or MK70,000 at the end of the season.
- Tenant is similarly provided with required farm inputs for his/her Landlord's tobacco growing.
- Tenants` final wage bill pay shall be fixed and thus no any food / other expenses shall be deducted except those that were cash advances to the Tenant and those of over food expenses by the Tenant.

NB/ This above agreement system is rarely used by most Tobacco farmers (growers) in Rumphu. It is the system that is greatly discouraged because it involves many problems that cannot be easily solved through dialogue.

All the three forms of Tobacco growing Agreements described above are within contract for specific period of time and contract for specific task respectively as provided by 5.2.1 above.

5.3. Contents (Terms) of Employment Contract

1. Name particulars and home addresses of Landlord and Tenant.
2. Specific type of work tasks to be performed by Tenant during the tobacco growing season.
3. Type or Form of Tobacco growing Agreement system used.
4. Amount of wage bill to be payable to the Tenant at the end of tobacco growing season to be agreed according to the type or form of Tobacco growing agreement system entered between the Landlord and Tenant.
5. Size of Tenant's family to be outlined
6. Contract commencement date
7. Tenant's Physical disabilities if any
8. Any other important employment terms to be agreed between Land Lord and Tenant. These should include discussions and agreed resolutions on things such as the following:

➤ ***Suppose the Tenant fails to carry out tobacco work as agreed because of:***

- Prolonged sicknesses / illnesses
- Due to cause for which he/she, the Tenant, is responsible himself / herself and not the Landlord (such as Laziness, inability, negligence, theft, crop damages etc)
- Due to cause for which the Landlord is responsible himself / herself and not the Tenant (such as failure to supply Tenants with required farm inputs and food for his / her upkeep, ill treatments to worker, negligence , theft, crop damages etc).

- Due to seasonal environmental stresses such as insufficient rainfall; heavy (destructive) rainfall; pests and diseases attack, or due to any other natural disasters)
 - Due to worker being given more work than what was agreed to be performed.
- ***Suppose both Landlord and Tenant meet their obligations*** but losses have been incurred (experienced) due to poor tobacco prices for the year at the Auction floors. Or loss of any damage of any form to tobacco while at Auction floor warehouses or in the transit through accidents.
- ***Suppose the Landlord and the Tenant agreed that food shall be provided to the Tenant on free of charge*** by the Landlord and the Tenant completes his/her work such that tobacco is baled and sent or not yet sent to Auction Floor waiting for sales or payment of wages. In this case what should happen with respect to food provision?
- ***Suppose worker (Tenant) produces by overshooting the agreed limits*** like in Cases of the Average Agreement System.

NB/ each of the above cases must be discussed thoroughly at the start of growing season during engagement between Landlord and Tenant so that solutions to each of them should be stated /specified as part of the employment agreement to be signed (entered) between Landlord and Tenant.

5.4. Tenancy Employment Agreement Form

Employment contract (agreement) has been entered between:

1. (a) Name and home address of Landlord **and** (b) Name and home address of Tenant

2. Contract commencement (starting) date (*i.e. date, month and year*).

3. Amount of wages (Salary) to be paid to tenant per day *or* per month *or* per other durational means of payments to be specified.

4. Nature (type) of work to be performed by Tenant

5. Normal hours of work or specified period of working time or specified task *i.e.* amount of work.

6. Any other term(s) of this employment agreement (*use issues on the attached sheet*)

7. Contract signing date and signatures of parties to the Employment contract (agreement).

(a) Signature of Landlord _____ (b) Signature of Tenant _____

Date _____ Date: _____

6. LABOUR OFFICERS AND THE LAW OF TENANCY (PENDING LAW).

6.1. Powers of Labour Officers regarding tenancy disputes.

A Labour officer:

- Has power to enter any estate at any hour without notice.
- Has power to enter any place which he/she reasonably believes to be an estate.
- Has power not to enter a private home of the Landlord or of a tenant except by their permission or by Magistrate Authority.
- Has power to carry out any examination or test to inquire whether provisions of the Act are being observed or not.

These powers are provided for under Sections 3 and 4 of the Pending Tenancy Labour bill 2001. However for the meantime Labour Officers are still legally empowered to carry out the above duties by Section 9 of the Employment Act No.6 of 2000.

In the course of executing the above powers, Labour Officer shall:

- Notify the Landlord of his/her presence when on an inspection visit.
- Be given free access and assistance by the Landlord.
- Require a Landlord to remedy the defeat of inadequate water at the Landlord's estate.
- Provide technical information and advice to Landlords and Tenants.

6.2 The pending Tenancy Labour Bill of 2001.

This bill is being awaited for and if passed into law, it will be part of Labour Legislation to be enforced by Labour officers.

The aim of the bill is to provide for the regulation of Tenancy Labour and the adjudication of disputes between Tenants and Landlords and for other related matters.

The Law shall empower Labour officers to perform a number of duties and responsibilities in addition to those stated under 6.1 above.

7. ATTESTATION OF CONTRACTS.

7.1 Meaning of Attestation of Contract

Attestation of contract means the process by which a Labour Officer or any other person appointed as Attestation officer declares or witnesses the employment or recruitment of a Tenant by his /her Landlord to be true and genuine one which is in line with the existing Employment Labour Laws.

7.2 Who can attest a Labour Contract?

A labour contract can be attested by a Contract Attestation Officer appointed by the Government in particular by Secretary for labour. Any Labour Officer of the rank-Assistant Labour Officer (EO) and above could be appointed to attest any labour contract.

In Rumphi district, attestation of Contracts is done at Rumphi district labour office by the District Labour Officer Or his / her representative Labour Officer.

7.3 Duties and powers of an Attesting Officer.

- Discuss all provisions of a proposed contract with both Landlord and Tenant.
- Attestation officer should satisfy himself / herself that each party to the contract fully understands the terms (contents) of contract before attestation.
- After attestation, Attestation officer must ensure that registered copies are given to each party of the contract
- At the time of attestation, Attestation officer must ensure that both parties to the contract to be attested are present or it could be their duly authorized agents to represent them.
- Attestation Officer must be presented or left with one contract copy for records.

8. TENANCY LABOUR DISPUTES

8.1. Labour cases normally handled by Rumphi district labour office.

- Non payment of wages
- Unfair dismissals
- Non-payment of terminal benefits such as severance allowances etc.
- Cases of failure by Employers to report Workers Compensation Cases.
- Industrial disputes such as strikes and Lockouts. Industrial disputes are also known as **collective disputes**.
- Under payment of wages
- Redundancies and retrenchments.
- Sexual Harassment caused at Places of work involving Labour and employment issues.
- Child Labour case issues.
- Stigma and discrimination at workplace.
- Non payment of overtime wages, Annual Leave pay etc.
- Complaint of Tenant being stolen by another Landlord.

8.2 Sources of complaints (Labour cases) at Rumphi labour office.

- Mostly from Tobacco Tenants
- From Tobacco Landlords.
- From other persons in the General Community.

- From other Institutions i.e. Police, etc.

8.3 Common causes of tobacco tenant disputes in Rumphi district.

- Poor prices of Tobacco at the Auction Floor in Mzuzu.
- Theft of Tobacco by Tenants themselves.
- Theft of Tenants by tobacco employers themselves
- Disagreements on contractual agreements; on food issues; and on prices etc.
- Negligence or inability by Tenants to do the work (deliver).
- Ignorance by both Employers and Employees on suitable employment agreement forms for Tobacco Tenants.
- Failure by either of the two parties to abide by their agreed terms of agreement.
- Violent Tenants to their Landlords usually under the influence of alcohol and other abusive drugs.

8.4 Procedural steps by Labour Office during dispute handling between Landlords and Tenants

A dispute or a disagreement between the Tobacco Landlord and Tobacco Tenant can be resolved at each of the following procedural steps:

8.4.1. Between two parties themselves.

- Either of the two parties should initiate a dialogue between themselves.
- Here parties should try to refer to their signed employment agreement if any **or** to any other agreed modalities or ethics of their work while attempting to resolve their dispute.
- Each party should be patient and ready to listen and talk to each other.
- Thus a dispute can be resolved and their Employment relationship can continue or their responsibilities be done to each other such as those of wage payments etc.

8.4.2 Use of any third Local Party.

- If procedure **one** above fails, then either of the two parties or a grieved party can contact any third person for help.
- This third party could be either a neighbour, a village head, leader(s) of village or of Area Tobacco clubs or of Unions and of institutional organisations such as Tobacco Tenants and Allied Workers` Unions (TTAWU) and ARET respectively.
- Members of community policing could also be used.
- Note that a grieved party is not restricted to the use of such local third parties before he/she takes a case to Labour Office.
- It is just a recommendation that a third party when well utilized can help resolve a dispute locally thereby reducing or avoiding some costs that would have been incurred by taking a case to Labour Office.

8.4.3. Lodging a case to Labour Office.

- Any grieved party can report a dispute to Labour Office for help (resolution)
- It could be very much good if this is done after both procedural Steps 1 and 2 above have been first utilized and a dispute still stands (remains unresolved)
- Labour Officers will settle Labour disputes by investigation, mediation and conciliation.
- To do this, Labour officers will closely make use of the existing Labour Laws.
- A field visit to the place of work by Labour Officers may be used to go and physically see actual amount of Labour work done so that correct information is gathered to help resolve the dispute.
- However such field follow-up visits depend solely on availability of office working resources such as Vehicles / Motorbikes and fuel resources. Meanwhile Rumphi District Labour office has only two old motorcycles that are usually on and off the road.

8.4.4. Use of Courts.

- Labour Office can refer a case to court.
- This can be done if one of the following conditions arise:
 - For any unresolved dispute at Labour Office
 - For any resolved dispute whose either of the parties is not satisfied with case resolutions by Labour office. The application of this condition will depend on the willingness of the unsatisfied party to have his/her case referred to Court.
 - For any failed **Rights dispute**. Labour Office mainly settles or tries **Interests disputes** within which it has total jurisdictions.

A **right dispute** usually involves a conflict regarding the interpretation of any piece of law or that of a condition of work. It is a kind of dispute that concerns the existing terms and conditions of employment see also section 13.6 of this manual. Such interpretation of Law is work by Courts only. Thus regarding rights disputes, Labour Office may attempt to guide, direct the grieved parties to understand and then to agree to resolve their rights dispute at Labour Office, otherwise a right dispute is supposed to be referred directly to court for interpretation. **Interest disputes** involve conflicts over wage increase or wage constant; over non payment of wages, overtime etc. In short it is a kind of dispute that concern the future terms and conditions of employment see also section 13.6 of this manual.

- Note that every Labour dispute that meets any of the three conditions above is supposed to be referred to Industrial Relations Court (IRC).
- This is the Court in Malawi which is established to hear and determine all Labour disputes. Section 110 (2) of the Constitution of the Republic of Malawi defines the IRC Court.
- Thus Labour disputes that need Court referrals are supposed to be reported to IRC and not to any court at the first instance.
- However due to not having such IRC facility at district levels like in Rumphi district, Rumphi Magistrate Court receives all Labour referred cases and try them.

- Finally Any Labour dispute from IRC may be referred to High court and then to the supreme court of Appeal (SCA).

8.5. What labour office cannot do for the tenancy Complainants at labour office and at their workplaces.

- Labour Office does not provide food for the Tenant Complainants.
- Labour Office does not provide accommodation for Tenant Complainants.
- Labour Office does not provide transport to tenants.
- Labour office does not force Landlords on request by Tenants to pay wages to Tenant Complainants but it rather works by following its normal procedures as outlined above.
- Finally Labour Office remains closed on Saturdays and on Sundays of every week.

Thus it is advisable that grieved Tenants when coming to lodge their complaints at Labour Office should be well prepared.

9. DUTIES OF LANDLORDS AND TENANTS

9.1. Duties of the Tenant to the Landlord.

- Perform contract tasks for the Landlord.
- Protect farm produce of his/her Landlord from theft and from being spoiled (damaged) by any means.
- Report to the Landlord about theft or about anything that is likely to cause damages to farm produce or to cause threats to the Tenant and his/her belongings at the place of work.
- Keep copies of his/her signed contractual agreement with his/her Landlord.
- Respect his/her Landlords and ensure that he/she avoids drinking beer if it can turn him/her an abusive person when drunk while at work.

9.2. Duties of the Landlord to the Tenant.

- Keep written records of payment to Tenant that are also verified by Tenants.
- Provide transport to the Tenant and his/her family from his/her home or place of recruitment to the place of work.
- Provide all required farm inputs to the Tenant.
- Provide accommodation to the Tenant.
- Provide food to the Tenant.
- Pay agreed sum of wages to the Tenant at the end of contract.
- Provide safe drinking water to the Tenant
- Provide medicine to the Tenant
- Ensure that Health, safety and welfare of the Tenant and family is safeguarded in the course of their being transported.
- Provide Repatriation Service to the Tenant. **Repatriation service** is the duty for the Landlord to transport back the Tenant to his/her home or place of recruitment.

The three circumstances during when a Tenant can be repatriated are:

- On expiration of contract when there is no contract renewal
- On termination of contract due to reasons such as:
 - (a) Inability
 - (b) refusal
 - (c) neglect of either the Landlord or the Tenant to comply with the provisions of Labour Laws related to Tenancy
- On termination by mutual agreement between Landlord and Tenant.

And the three means by which a Tenant can be transported are:

- by public Transport
- by private vehicle belonging to the Landlord
- by private vehicle hired by Landlord

10. TENANCY DISPUTES AND JURISDICTION OF OTHER INSTITUTIONS OTHER THAN LABOUR OFFICE.

10.1. The Police

A Police Officer may arrest without a warrant any person who he reasonably believes will have committed an offence under Tenancy Labour Act (Section 37 of Tenancy Labour bill).

10.2. Tobacco Tenants and Allied Workers Union (TTAWU).

This is a registered union that fights for the rights of Tenants. In Rumphi district such a union has its operational Offices in St Denis location at Rumphi Boma. Its office bearers can be invited by labour office to be witness during joint discussions of some Tenancy reported disputes at Labour office.

In summary, a Trade Union or Employers`Organisation may represent a complainant at Labour Office or in the Court of Law (Section 30 (4) of Tenancy Labour bill).

10.3 Tobacco Association of Malawi (TAMA)

- TAMA produces every years` Government recommended tobacco prices of various tobacco categories to be bought by Landlords from Tenants (***Govt approved Barley(Bale) Tobacco Price list***). See appendix one of this manual.
- TAMA produces approved year`s Government checklist of required farm inputs to be provided by Landlords for their Tenants. See appendix two of this manual
- TAMA produces recommended prices of various commodities per specified quantities that can be advanced to Tenants by Landlords during the course of each seasonal year (***Tenant Inputs pricing***)
- TAMA also provides guiding charges for the works of constructing `Gafas` by Tenants, Charges for Tobacco nurseries preparations etc.

It is therefore, recommended that both Tenants and Landlords should attempt to source such TAMA documents for their guidance, because they are the same documents that are being used by Labour Officers during the process of tenancy dispute resolutions at Labour Office and at their Workplaces.

10.4. National Smallholders Farmers Association of Malawi (NASFAM)

This association was established and organized to help small Scale farmers especially those growing tobacco (the Landlords) access bank loans to procure farm inputs such as fertilizers, seeds and pesticides. This association does not encourage any Landlord to employ Tenants for their Tobacco growing. It totally discourages the use of Tenants by Landlords. As a result some Tobacco growing Landlords in Rumphi District who, based on NASFAM advices, do not engage Tenants; help to convince some of their fellow crop growers using Tenants to avoid or reduce numbers of their employed Tenants if they do not have potential capacity to employ and maintain Tenant workers. This indirectly helps Labour office as it can reduce the number of future Tenancy disputes to labour office.

10.5 The Courts

- The Court can receive and handle any Labour Office referred case to it including tenancy disputes.
- The Magistrate court has Authority to issue a permit granting a Labour officer to enter a Private home of Landlord or Tenant for purposes of carrying out Labour inspections.
- Court has jurisdiction (duty) to rescind (withdraw) a contract between Landlord and Tenant declaring it invalid.
- Court has jurisdiction to assess the fair value of services done by the Tenant.
- Court has jurisdiction to decide relative rights and duties of Landlords and thereafter fix the amount of Compensation.
- Court has jurisdiction to adjust and set off a claim against the other party.
- The Court may make a maintenance order against the Landlord requiring him/her to provide necessaries to the Tenant who has instituted a Complaint against the Landlord.
- The Court may order an arrest of the Landlord who is believed by the court to be absconding after proceedings have been instituted against him.
- Finally, where judgment is given against the Landlord to pay a sum and he/she fails to do so, the Court may order seizure of his property.

10.6. Agricultural Research and Extension Trust (ARET) and other Society Tobacco Clubs.

- ARET Officials or leaders of some society tobacco clubs can handle and resolve any reported dispute between a Tenant and Landlord before it gets reported to Labour Office.
- This does not mean that ARET has the duty to receive and settle Tenancy Labour disputes. The work of labour dispute resolution still remains for Labour Office as

its competent government office. Some ARET officials are just recommended at village level to assist conflicted Landlords with their Tenants as third local party mediators. See 8.4.2 above.

10.7. Industrial Relations Court (IRC).

Industrial Relations Court has original jurisdiction over labour disputes and other issues relating to employment.

Industrial Relations Court does not make any orders of costs, only where party fails to attend, without good cause or where matter is annoying or not serious.

There is simple representation of parties at the Industrial Relations Court in the sense that a Complainant has to lodge his / her complaint personally; a Complainant can be assisted by a member of organization eg. Trade Union. A Complainant can however be represented by a legal Practitioner with permission of IRC. The Industrial Relations Court performs the following core functions:

- To hear and determine all labour disputes and disputes assigned to it under law.
- To hear and determine criminal prosecutions under the employment act.
- To hear and determine such other disputes relating to employment.

11. TERMINATION OF TENANCY EMPLOYMENT

11.1. Grounds of termination by the Tenant

(notes for this part to be inserted later)

11.2. Grounds for termination by the Tenant

(notes for this part to be inserted later)

12. GENERAL GUIDELINES ON SALE OF PRODUCE AND PERMISSIBLE DEDUCTIONS, REGARDING TENANCY EMPLOYMENT.

These guidelines mostly apply to those Tenants on tenancy agreement,

- Tenant shall sell his/her produce to his/her Landlord or Landlord's agent without presentation of false weight.
- Land Lord shall ensure that scales are properly assize (set).
- Landlord should display or use government approved purchase list
- Landlord should ensure that produce bought from Tenant is receipted indicating name of the crop.
- No contract shall be transferred from one Tenant to another except where Tenant dies prior to the termination of the contract.
- There must be no sale of Tenant's produce who is illiterate (i.e. does not know how to read and write) unless the Tenant has a literate witness representing him/her.
- Failure to ensure that produce is properly dried and also the presentation of false weight by Tenant shall be an offence to be punishable.

- All permissible deduction of monies owed to the Landlord by the Tenant shall be deducted from the final total sale of the Tenant's produce.
- There should be no interest to be charged on Loans made to the Tenants.
- The Tenant must be compensated when leaving the estate before sale of his/her produce with an amount equivalent to the unprocessed crop.
- Labour Officers shall determine value of the unprocessed crop.
- Landlord must keep any written records of payments to Tenants
- Landlord shall pay Tenants` dues in legal tender and shall have committed an offence if not done so.
- Where contract is prematurely terminated due to Tenant's sickness. Landlord shall pay a sum of money equal to the value of work done by Tenant himself/herself.

13. LABOUR INSPECTIONS

13.1. Labour Inspectors

Labour Inspectors are part of the government machinery whose purpose is to develop Labour and Social relations in an orderly way. They are key players in promoting balanced Social – economic development. This is so by the fact that they have unique power to access workplaces freely and without hindrance at any time of the day or night in order to do their functions.

13.2. Labour Inspection Conventions

Convention No. 81 of 1947 is the basic instrument on Labour Inspection that targets the enforcement of Laws relating to conditions of work and the protection of workers in Industrial and commercial workplaces,

Convention No.129 of 1969 is the one that applies to all Agricultural undertakings with salaried employees or apprentices and to **Tenants**. In general the convention also applies to all those in the informal Sector.

13.3. Basic set of functions covered by Labour Inspections

- Terms and conditions of work eg Annual Leave, wages, hours of work, overtime payments etc
- Workplace safety, health and hygiene (Welfare)
- Employment of children, young persons and women.

13.4. Functions of Labour inspectors

- Advise employers and workers on how to best comply with the law;
- Promoting harmonious relations and social dialogue between employers and workers;
- Investigating, conciliating and mediating disputes between employers and workers;
- Dealing with social insurance matters such as workers compensation.

In Summary, Labour Inspectors have the functions to enforce the law; to inform on the law and advise on the law among employers and workers. By doing so, they:

- negotiate improvements in working conditions and compliance to regulations with employers (enforce the Labour law and related regulations);
- report and take decisive action on violations;
- report to superiors on problems and defects not covered by the Law;
- involve other authorities where necessary in attempt to ensure that the non-compliants of Labour laws are dealt with accordingly; and
- Proceed to sanctions and take or initiate legal proceedings with the authority of their Office and the Law behind them.

13.5. Obligations of Labour Inspectors

Labour Inspectors have obligations to:

- Notify Employers of their presence when on Inspection visits for some visits and not for all.
- Show their Labour Identity cards to employers.
- Undertake not to reveal any secret processes and information that may harm employers' competitive position.
- Keep confidential the source of any complaints against employers.
- Be independent, impartial and unbiased, while showing authority.
- Have no direct or indirect interest in the enterprises under their supervision;
- Submit individual inspection reports and periodic activity report to superiors and,
- Refrain from any unethical or corrupt behavior

13.6. Relationship between Labour inspection and Industrial relations.

Labour inspection concerns enforcing Labour protection laws and advising employers and workers on how to comply with legal provisions.

Industrial relations concern the interaction between workers, Employers and the government relating to work or arising out of the workplace.

The interaction between workers and employers, and government intervention which influences the interaction clearly touch on matters of Labour inspection.

For instance:

Minimum wage regulations stipulate pay rates for workers. Pay rates are checked by inspectors as part of their routine inspection functions.

If there is a discrepancy between the wage paid and the minimum entitlement, the inspector must instruct the employer to comply with the law.

If the Employer refuses, there is an individual rights dispute between the worker and the employer, and a breach of the Law.

Who should handle this problem? Should it be taken up immediately by the Labour inspector or should it be referred to a specialist Industrial relations Officer?

Individual rights disputes, which concern the existing terms and conditions of employment, can be resolved formally or informally by Labour inspectors.

Interest disputes, which concern the future terms and conditions of employment, are better handled by specialist Industrial relations Officers.

Thus Rights disputes are disputes over the existing terms and conditions of employment. Interest disputes are over the future terms and conditions of Employment.

13.7. Labour inspections in Tobacco farms and estates.

The normal procedure of conducting routine Labour inspections is also applicable in Tobacco farms and estates. In this case Tobacco farms and estates are treated as workplaces.

In Rumphu district, Inspections of Tobacco farms and estates is likely to be concentrated in most areas of Nkhamanga plain and of Henga valley. There are a number of Tobacco farms and estates concentrated in these two major zones. These farms/estates include both individual owned farms / estates as well as large scale owned estates like those of Nkhozho estates. A quite greater number of Tenants are found employed and working in these areas.

As indicated under section 13.4 above, it is during Labour inspections when all minimum employment conditions included under section 14 of this manual can be enforced. Tobacco tenants and their Landlords can also be well informed / advised on their rights at workplaces.

The major works of Labour inspections and of Labour laws sensitizations are of equal weighting and thus they supplement each other. However, as has been indicated in the background information, it is Labour sensitizations that are most suitable for numerous individual Tobacco farms and small estates as opposed to the formal process of Labour inspections. Thus, high recommendation for the strategy by this working manual.

14. MINIMUM CONDITIONS OF EMPLOYMENT

- Minimum conditions of employment are spelt out in the Employment Act No.6 of 2000 and in some other pieces of Labour Legislation.
- Whereas all period specific minimum government regulated conditions of employment such as those of current minimum wages and of housing allowances are contained in current government gazetted notices that are effected from time to time.
- All employments related to Tobacco tenancy system in Rumphu that use forms of contract types for their employment agreements other than those that pay Tenant

workers periodically, should have well spelt out and signed terms of employment agreement between the two parties to employment. Nevertheless, such terms must be in line with any of the Employment condition as provided for in pieces of Labour legislation.

- However those Tobacco tenancy workers and indeed all those other Contract workers who are employed and paid periodically or whose signed or non-signed employment agreements with their Landlords have failed to exist to the last point should be treated as normal workers engaged on tickets and thus must be subjected to every minimum conditions of employment provided for, in Labour Legislation.
- Note that in some circumstances where normal ticket wages may not necessarily be applicable, Labour Officers can use their discretion to determine wages to be paid out to the terminated Tenant based on calculated weightings of each of the major work components involved in the growing of tobacco and indeed those that will have been performed by the terminated Tenant up until the termination time. This means that labour wages for each performed work component shall be determined and then total Labour wages for all the performed work components totaled to give total wages to be payable to terminated Tenants for his/her work services rendered to Landlords up to the time of termination.
- Observance of minimum conditions of employment is checked by Labour Inspectors during their routine Labour Inspections. The same could also be met through sensitizations on Labour laws to various workplace employers and employees.
- The following are the minimum conditions of employment laid down in the employment Act:

14.1. Minimum wage and Housing allowance *(to vary from year to year due to adjustments)*

The minimum wage in Rumphi district is currently at **Mk 95.45** per working day. This means every employed worker must be paid not less than **Mk95.45** per working day as wages.

The minimum Housing allowance in Rumphi District is currently at **Mk10.00** per calendar day. This means every employed worker must be paid not less than **Mk10.00** per each calendar day as housing allowance.

Combining both minimum wage and housing allowance, it means that every worker employed and working in Rumphi district and indeed in any of its parts should be paid a total sum of not less than **Mk 105.45** per day (i.e. Mk 95.45 + Mk 10.00) and should be paid a total sum of not less than **Mk 95.45** per day if provided with housing accommodation by the employer.

These are the minimum wage and housing allowance at the time of writing this manual. They were revised and effected from 9th October, 2007 being published in the Malawi Government Gazette supplement of 11th October, 2007 as Government Notice No. 28. They are subject to upward revision in the future.

14.2 Working hours

The Legal requirement for maximum normal working hours is 48 hours per week, that is, 8 hours per working day. However, workers can work overtime for overtime wages.

This means that an employed worker may be allowed to work for more than forty-eight hours per day provided that any hours worked in excess of 48 hours shall be treated as overtime and paid at acceptable set legal rates for each of overtime wage categories indicated under 14.3 below.

14.3. Overtime Payments.

Overtime payment rates are according to each of the three classes of Overtime provided for by Section 39 (2) of the Employment Act No.6 of 2000. The three classes of overtime are as follows:

14.3.1. Ordinary Overtime

This is time worked by an employed worker on a working day but in excess of the hours normally worked. For instance, the 9th hour worked per day should be treated as overtime worked hour.

A worker should be paid at the hourly rate of not less than 1 and 1/2 (One and One-half) his / her normal hourly wage rate for One hour of ordinary overtime hours.

14.3.2. Day – off Overtime

This is time worked by an employed worker on a day on which the worker would otherwise be off duty.

A worker should be paid at the hourly rate of not less than twice his / her wage for one hour of a day-off overtime hours.

14.3.3. Holiday Overtime

This is time worked by an employed worker on a public holiday.

A worker should be paid at an hourly rate of not less than twice his/her normal hourly wage rate for one hour of holiday overtime

Note that the above overtime rates apply to every employed worker except the Guard who when works in excess of forty-eight hours should have his/her overtime hour paid at the rate of fifty (50%) percent of the Guard's basic pay.

14.4. Weekly Rest Period

Every employed worker should be given at least one working day of rest in each week of 7 days. This means an employee should work for a maximum of six days during the week.

The declared weekly rest day should be the day to be agreed upon between the employer and the employee. It could be Sunday, or Saturday, or Wednesday or any other day of the week.

14.5. Minimum Employment Age

The Minimum age for employment in Malawi is currently pegged at 14 years.

However, persons of ages between 14 to 18 years should be employed but not in hazardous work.

This means that no person shall be employed whose age is below 14 years, otherwise that shall constitute child Labour, a practice that is totally prohibited under Malawi Labour Laws.

14.6. Annual Leave.

Every employee shall be entitled to a period of annual leave with full pay.

An employed worker working for six days in a week should enjoy 18 working days leave per annum with full pay.

An employed worker working for five days in a week should enjoy 15 working days leave per annum with full pay.

Depending upon agreement between Employer and Employee, Annual leave days for the employee may be bought by the employer.

14.7. Sick Leave

An employee who has worked for at least 12 months continuously for the same employer shall be entitled to sick leave with pay of some amount for maximum of twelve weeks. This should be on condition that a suffering employee produces a signed medical report.

For instance:

- A suffering employee shall be entitled to 4 weeks sick leave on full pay.

- A suffering employee shall be entitled to 8 more weeks sick leave on half pay.

These two circumstances above should be the case during each year of suffering by the employee.

- A suffering employee for more than 12 months continuously shall either be terminated on medical grounds or remain in the employment without pay upon the discretion by the employer.

14.8. Maternity leave.

Every female employee shall be entitled to at least eight weeks maternity leave on full pay within a period of every three years.

This means that a female employee who falls on maternity leave for the second time but within a period of 3 years shall either be granted maternity leave on no pay or be replaced based on her employer's discretion.

A female employee on normal maternity leave should:

- Be entitled to all benefits during maternity leave.
- Have right to return for work after maternity leave
- Have right not to be dismissed for being pregnant.
- Be granted with additional leave in case of pregnancy related illness.
- Have her maternity leave enjoyed whether she is a temporary or permanent employee.

14.9. Workers Compensation

Every employed worker, except those of casual nature, is entitled to compensation if he / she gets injured or contracts diseases whilst in the course of his / her duties.

14.10. Public Holidays

There are eleven Malawi Government gazetted Public Holidays that should be rested upon by every employed worker except the one performing overtime duties.

There are eleven gazetted public holidays in a year. Holidays which are just announced are not recognized as holidays unless it is announced by Government and or if you are advised accordingly. Such eleven holidays are as follows:

<i>New Year's Day</i>	<i>1st January,</i>
<i>John Chilembwe's Day</i>	<i>15th January,</i>
<i>Martyr's Day</i>	<i>3rd March,</i>
<i>Good Friday</i>	<i>date in April,</i>
<i>Easter Monday</i>	<i>date in April,</i>
<i>Labour Day</i>	<i>1st May,</i>
<i>Freedom Day</i>	<i>14th June,</i>
<i>Republic Day</i>	<i>6th July,</i>
<i>Mother's Day</i>	<i>2nd Monday of October,</i>
<i>Christmas Day</i>	<i>25th December and,</i>
<i>Boxing Day</i>	<i>26th December. (cancelled)</i>

14.11. Fundamental work principles

- 14.11.1. No person shall be required to perform forced Labour.
- 14.11.2. No person shall discriminate against any employee.
- 14.11.3. There shall be equal pay for work of equal value.
- 14.11.4. Every Child below the age of 14 years shall not be employed.
- 14.11.5. Every person shall have the right to freedom of association while at work.
- 14.11.6. Every person shall not be above the law (i.e. no person shall act contrary to the provisions of Labour laws otherwise the person shall be punished accordingly).

**Appendix 1 : 2009 Government approved Bale Tobacco Prices list
when being Purchased from Tenants.**

THE TOBACCO ASSOCIATION OF MALAWI (TAMA)

**MITENGO YOVOMEREZEKA YOGULIRA FODYA WA BALE KWA MA
TENANTI**

(Approved Bale Tobacco Prices when purchased from Tenants).

PRIMINGS (FLYINGS)		MAIN LEAF		
		LENGTH	PRICE	
			LIGHT	RED
		No.1 48 cm and over	K90.00 / kg	K120.00 / Kg
41 cm – 47 cm	K80.00 / Kg	No.2 41 cm – 47 cm	K70.00 / kg	K80.00 / Kg
30 cm - 40 cm	K70.00 / Kg	No. 3 30 cm – 40 cm	K65.00 / Kg	K70.00 / Kg
19 cm – 29 cm	K50.00 / Kg	19 cm – 29 cm	K50.00 / Kg	K50.00 / Kg
*		*		
Clean / Broken	K30.00 / Kg	Clean / Broken	K25.00 / Kg	K30.00 / Kg
Water Stained	K5.00 / Kg	Water Stained	K5.00 / Kg	K5.00 / Kg

Dziwani kuti (Note that):

- Mitengo ndi yomwe yavomerezeka ndi Boma
(These are prices approved by the government)
- Mitengo iyikidwe malo owonekera kwa aliyense pa malo ogulira fodya.
(Price list should be displayed at a visible position at every tobacco selling point).
- Fodya yense opezeka ndi zinthu zomwe sifodya adzatsitsidwa mtengo ngakhale kumubweza kumene.
(Tobacco mixed with non-tobacco materials shall have its Prices reduced or returned to grower).
- Mitengoyi ikugwirizana ndi m`mene ndalama ya kwacha ilili mogwirizana ndi ndalama ya Dollar, kusintha kopitilira kapena kuchepera ndi 10 % kuzapangisa kuti Bungwe la TAMA liyang`anenso mitengo.
(These prices are inline with how Malawi kwacha relates to US.Dollar. Any fluctuation of Malawi Kwacha by more or less than 10% shall cause the Tobacco Association of Malawi to revise prices).

Note that these above prices (charges) are applicable for a specific year & area only.

Appendix 2 : Yearly Tenant Input Pricing by Area**TOBACCO ASSOCIATION OF MALAWI (TAMA).
(Area 20 for 2006)**

1.	FERTILIZERS	QUANTITY/SIZE	CHARGING PRICE
	Super D. Compound	50Kgs	MK 4,878.40
	D Compound	50Kgs	MK 4,320.00
	Super C. Compound	50Kgs	MK 4,232.00
	23:21:0 & 22:20:0	50Kgs	MK 4,210.00
	D A P	50Kgs	MK 4,210.00
	UREA	50Kgs	MK 3,900.00
	CAN / Ammonium Nitrate	50Kgs	MK 3,500.00
	Super B	50Kgs	MK 4,496.00
2.	RATION	QUANTITY/SIZE	CHARGING PRICE
	Maize	Per 1Kg	MK 60.00
	Maize	20Kg tin	MK 1200.00
	Maize	50Kg bag	MK 1500.00
	Mgaiwa	per Kg	MK 75.00
	Mgaiwa	per 20Kg tin	MK 1275.00
	Kondowole	per tin	MK 800.00
	Beans	per Kg	MK 80.00
	Nkhunde	per Kg	MK 60.00
	Salt	per Kg	MK 50.00
	Salt	khofi plate	MK 20.00
	Beans	Per khofi plate	MK1,750.00
	Beans	Per tin	MK 17.50
	Ground nuts	Per Kg	MK 100.00
	Ground nuts	Per khofi plate	MK 20.00
	Cow /peas / Nkhunde	Per Kg	MK 40.00
	Cow /peas / Nkhunde	Per khofi plate	MK 8.00
	Pegion peas / Nandolo	Per Kg	MK 30.00
	Pegion peas / Nandolo	Per khofi plate	MK 8.00
3.	TOOLS AND IMPLEMENTS	QUANTITY/SIZE	CHARGING PRICE
	Best 43 hoe	one	MK 500.00
	Locally made hoe	one	MK 400.00
	Axes	one	MK 380.00
	Sickles	one	MK 250.00
	Phanga Knife	one	MK 400.00
	Watering cane	one	MK 900.00
	Water bucket	one	MK 750.00
	Bafa	one	MK 600.00
	Plastic Plate	One medium	MK 45.00
	Plastic cups	One small	MK 25.00
	Pots	One small	MK 195.00

	Poly Wraps	One wrap of	MK 400.00
	Black	one	MK 2,600.00
	Blank sheet	3metres long	MK 3,500.00
	Plastic pale		MK 400.00
	Locally made pot	Big	MK 230.00
	Locally made pot	small	MK 175.00
	Plates / plastics	Big	MK 40.00
	Plates / plastics	small	MK 30.00
	Cup / Plastics	Big	MK 30.00
4.	NURSERY	QUANTITY/SIZE	CHARGING PRICE
	Estate owned nursery	One bed of 20 m Per Tenant	MK 5,000.00
	Tenant owned nursery	One bed of 20 m Per Tenant	MK 1000.00
5.	VIGafa	QUANTITY/SIZE	CHARGING PRICE
	Constructed by Estate owner	Per Box	MK 150.00
	Maintained by Estate owner	Per Box	MK 100.00
6.	LABOUR CHARGE	QUANTITY/SIZE	CHARGING PRICE
	Per Man	Per day	MK 105.30
	Tenant	Per day	MK 105.30
	Salary wages	Per 10 Months	MK16,000.00
	Tenant	Per Month	MK 3,159.00
7.	CONTRACT AGREEMENT	QUANTITY/SIZE	CHARGING PRICE
	Contract agreement on good Tobacco		MK 27.00 / Kg for 1 & 2
	Contract agreement on poor Tobacco		Mk 23.00 / Kg for 2 & 3
	`x` - Tobacco grade	One Kg	MK 10.00 / kg
	Water Stain	One Kg	Mk 2.00 / kg
8.	OTHER CHARGES	QUANTITY/SIZE	CHARGING PRICE
	Cash and Advances	On Amount borrowed	60%
	Ran-away Tenant	Per Tenant	MK3,000.00 plus MK5,000.00 (Mk8,000.00)
	Managing Director	Per Tenant	MK 10,000.00 plus MK5,000.00 (Mk15,000.00)
	Transport	Per Tenant family	K6,500.00

9. MISCELLANEOUS NOTES.

- The above prices are the Optimum / Maximum (utmost) prices
- The other cost prices not here should be equated at cost price plus 20%
- You are not allowed to steal a tenant, once found, you will pay penalty of K25,000.00 per tenant family.
- The above Tobacco Tenants input charges for each growing season (ie 2006 / 2007) shall vary from one area to another or from one group of areas to other)
- No Land rents to be charged against tenant.
- Directors should stick to the above prices only.
- Directors should not pay any extra charges per bale to drivers above the stipulated bale price to the Auction Floors / satellite depot.

Note that these above prices (charges) are applicable for a specific year & area only.

Appendix 3: TENANCY EMPLOYMENT AGREEMENT FORM.

Employment contract (agreement) has been entered between:

<p>2. (a) Name and home address of Landlord</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<u>and</u>	<p>(b) Name and home address of Tenant</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
---	-------------------	--

2. Contract commencement (starting) date (*i.e. date, month and year*).

3. Amount of wages (Salary) to be paid to tenant per day *or* per month *or* per other durational means of payments to be specified.

4. Nature (type) of work to be performed by Tenant

5. Normal hours of work or specified period of working time or specified task *i.e.* amount of work.

6. Any other term(s) of this employment agreement (*use issues on the attached sheet*)

7. Contract signing date and signatures of parties to the Employment contract (agreement).

(a) Signature of Landlord _____ (b) Signature of Tenant _____

Date _____

Date: _____

Appendix 4: List of prominent issues for discussion during employment engagement

NB / Each of the following cases must be discussed thoroughly at the start of growing season during engagement between Landlord and Tenant so that solutions to each of them should be stated /specified as part of the employment agreement to be signed (entered) between Landlord and Tenant. Resolutions with respect to some of these issues should be stated under clause **No. 6.** of the **TENANCY EMPLOYMENT AGREEMENT FORM** (any other term(s) of the employment agreement).

The Landlord and the Tenant should consider that:

- ***Suppose the tenant fails to carry out tobacco work as agreed because of:***

prolonged sicknesses / illnesses; due to cause for which he/she (the Tenant) is responsible himself/herself and not the Landlord (such as laziness, inability, negligence, theft, crop damages etc); due to cause for which the Landlord is responsible himself / herself and not the Tenant (such as failure to supply Tenant with required farm inputs and food for his/her upkeep, illtreatments to worker (Tenant), negligence , theft, crop damages etc); due to seasonal environmental stresses such as insufficient rainfall; heavy (destructive) rainfall; pests and diseases attack, or due to any other natural disasters); due to worker (Tenant) being given more work than the one which was agreed to be performed.
- Suppose both Landlord and Tenant meet their obligations but losses have been incurred (experienced) due to poor Tobacco prices for the year at the Auction floors. **Or** Loss of any damage of any form to tobacco while at Auction floor warehouses **or** in the transit through accidents.
- Suppose the Landlord and the Tenant agreed that food shall be provided to the Tenant on free of charge by the Landlord and the Tenant completes his/her work such that Tobacco is baled and sent or not yet sent to Auction Floor waiting for sales or to be sent respectively while the Tenant is waiting for payment of wages. In this case Landlord and Tenant should discuss on what should happen with respect to food provision.
- Suppose worker (Tenant) produces by overshooting the agreed limits like in cases of the Average Agreement System.
- Suppose a member of the Tenant` family dies

TEA form 1b. *Designed and adopted for use by Rumphi District Labour Office.*

REFERENNCES

Employment Act No. 6 of 2000

Workers Compensation Act No. 7 of 2000

The Constitution of the Republic of Malawi

Tenancy Labour Bill of 2001

The Body of Case Handling Institutions (BCHI) booklet

Richthofen V.W. , (2002): *Labour Inspections: A Guide to the Profession*, Biddles Ltd,
International Labour Office_(Geneva).
