

**Ministry of Social Integration, Social Security and National Solidarity  
(Social Security and National Solidarity Div)**

**12<sup>th</sup> Session of the UN Open-Ended Working Group (OEWG) on Ageing**

**Focus Area: Right to work and access to Labour**

The labour legislations in Mauritius neither forbids the right of work to older persons nor their access to the labour market. The Workers' Rights Act 2019 (WRA) and the Equal Opportunities Act make provision for same.

Any person, irrespective of his age and wherever employed is covered by the labour legislations.

**Section 10** of the Workers' Rights Act 2019 (WRA) stipulates *"A person who is of the age of 16 or more shall be competent to enter into an agreement and shall, in relation to the agreement and to its enforcement, be deemed to be full of age and capacity."*

***Section 26 provides that:***

*(a) Every employer shall ensure that the remuneration of a worker shall not be less favourable than the remuneration of another worker performing work of equal value.*

*(b) Where an employer has recourse to the services of a job contractor, the job contractor shall ensure that the remuneration of any worker employed by him shall not be less favourable than the remuneration of a worker employed by the principal employer and performing work of equal value.*

***Discrimination in employment and occupation***

*(1) (a) No employer shall treat, in a discriminatory manner, any worker who is in his employment.*

*(b) No prospective employer shall treat a person in a discriminatory manner in respect of access to employment.*

*(2) Any distinction, exclusion or preference in respect of a particular occupation based on the inherent requirements of the occupation shall not be deemed to be discrimination.*

*(3) A person does not discriminate against another person by imposing or proposing to impose on that other person a condition, requirement or practice that has or is likely to have a disadvantaging effect, where the condition, requirement or practice is reasonable in the circumstances. (...)*

*(5) In this section –*

*“discrimination” includes affording different treatment to –*

- different workers attributable, wholly or mainly, to their respective description by age, race, colour, caste, creed, sex, sexual orientation, HIV status, impairment, marital or family status, pregnancy, religion, political opinion, place of origin, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation; (...)*

The Ministry of Labour, Human Resource Development and Training caters for the registration of older persons up to 65 years who are looking and are available for jobs. Counseling, workshops and placement activities are also offered to job seekers by that Ministry.

A dedicated job portal <https://mauritiusjobs.govmu.org> enables any jobseeker, irrespective of age to register and apply for jobs posted thereon. The Human Resource Development and Training Division collects

information on jobs and disseminate them through the website: <https://mauritiusjobs.govmu.org>, the media (TV and Radio programmes) and to youth centres, Social Security offices, Citizens Advice Bureaux and NGOs.

Major challenges, among others, faced by older persons are that whenever they lose their jobs –

- they have difficulties to be redeployed or find alternative jobs; and
- some of them do not have the experience or skills that match labour market requirements or are else are not adapted to the labour market needs.

**Challenges faced by workers including older persons**

- During the COVID-19 pandemic period, the employment of many workers, including older people was similarly negatively impacted, whether in terms of reduction of working hours, reduction of wages or even through job losses following restructuration, retrenchment or even closure of enterprises.
- Older person might be vulnerable to discrimination on the basis of age and to workplace violence, though as per our records no such case has been reported to the Ministry.

Healthy and able old age persons (above 65 years) are actively participating in the labour market in various sectors of the economy such as Agriculture, Trade, Security services. Many of them have started their own family businesses and have become self- employed in numerous activities. They remain thus economically active while enjoying their retirement benefits.

Wages prescribed for various categories of workers by Remuneration Regulations governing terms and conditions of employment in various sectors of economic activities apply indiscriminately to all workers including *older persons*.

### **Remedies and Redress Equality and non-discrimination**

- Under section 32 (1A) (b) (2) the WRA, an employer can request a worker to work temporarily for a shorter number of hours than that specified in his agreement at a reduced remuneration **ONLY upon approval of** the Supervising Officer of the Ministry of Labour.
- Similarly, section 15 “*Agreement to perform part time or full time*” of the WRA also provides that an employer can reach an agreement with a full-time employee to perform part time work for a specified period of time, subject to the approval of the Supervising Officer of the Ministry of Labour. With a view to protecting a worker from any abusive use of this provision, more particularly in the wake of the pandemic period, the section further stipulates that any such measure **shall in no manner exceed 3 months** and that the worker has the option to revert back to his full timework at the expiry of that agreement.
- Additionally, special provision exists in the aforesaid section, in case where an employer chooses to terminate the employment of a worker when the latter has agreed to work at a reduced remuneration on part time basis. In the said instance, any computation of severance allowance would have been computed on the basis of the remuneration the worker would have drawn prior to his entering into the part time agreement.
- A Redundancy Board is established under the said section 73 of the WRA to examine the request of an employer to reduce its workforce and to make recommendation as appropriate.
- The WRA provides at section 72 for instances where an employer decides in normal circumstances to reduce his labour force for economic reasons. However, in the wake of the COVID-19 pandemic, including during the lock down period and thereafter

and despite its negative impact on enterprises, the WRA was amended to prohibit nonetheless any decision by employers to terminate the employment of their workers on economic and financial grounds during any period prior to 30 June 2022.

- To address such issues, the amendments were made to Section 72 of the WRA requiring enterprises in economic and financial difficulties to seek financial support from prescribed institutions with a view to maintaining their operations and by the same token to preserve employment of all its workers.

Any decision taken by employers to terminate employment of a worker in breach of Section 72 of the WRA would be deemed to be unjustified, thus enabling any laid off workers to make representation to the Redundancy Board to claim either their reinstatement or else to get an Order for the payment of severance allowance for unjustified termination of employment.

Section 64(1) – **“Protection against termination of employment”** of the WRA 2019 prohibits termination of employment of workers on grounds of discrimination including on status based on age.

In cases of dispute of interest or dispute related to reinstatement, workers may call at the conciliation service of the Ministry of Labour or report a dispute at the Commission for Conciliation and Mediation. In case of non-settlement, the matter is referred to the Employment Relations Tribunal.

The **Equal Opportunities Act (EOA)** expressly prohibits any form of discrimination on account of a persons’ status and more specifically on account of a persons’ age.

- Discrimination under the act includes direct and indirect discrimination as well as discrimination by victimisation. The Act defines “status” as meaning “(...) **age**, caste, colour, creed, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex or sexual orientation;”
- Furthermore, Section 10 of the EOA provides inter alia that *“No employer or prospective employer shall*

*discriminate against another person—(a) in the advertisement of a job; (b) in the arrangements he makes for the purpose of determining who should be offered employment; (c) in determining who should be offered employment; (d) in the terms or conditions on which employment is offered; (e) by refusing or deliberately omitting to offer employment to that person; (...)"*

- However, it may be noted that an exception to the above is allowed in the event where the offer of employment is limited to persons of a particular age.

The **Building Control Act** provides for the basic requirements that every building, shall be designed, constructed and maintained, in such a way as to guarantee people's safety, society's well-being, the protection of the environment, and aesthetic value, and satisfy such functional requirements as specified including in relation to accessibility, to ensure that persons with impaired mobility and communication, elderly persons and pregnant women are able to access and use the building and the facilities within the building comfortably. Access to the workplace by elderly persons also falls under the purview of this Act.