

CHAPTER 260 PROTECTION OF WAGES ACT

• Act • Subsidiary Legislation •

ACT

Act No. 19 of 1973

Amended by

Act No. 14 of 1999

ARRANGEMENT OF SECTIONS

1. Short title.
 2. Interpretation.
 3. *Repealed.*
 4. *Repealed.*
 5. Agreements as to place and manner of spending wages illegal.
 6. *Repealed.*
 7. *Repealed.*
 8. *Repealed.*
 9. *Repealed.*
 10. *Repealed.*
 11. *Repealed.*
 12. Interest, etc., on advance of wages prohibited.
 13. Advances by way of loan.
 14. Limitation as to amount of money to be advanced.
 15. *Repealed.*
 16. *Repealed.*
 17. *Repealed.*
 18. *Repealed.*
 19. Unlawful advances to be irrecoverable.
 20. Saving as to judgment debts.
 21. Agreements of co-operation excepted.
 22. Remuneration other than money.
 23. *Repealed.*
 24. Provision for workers in the employment of contractors.
 25. Limitations on attachment or seizure of wages.
 26. Priority of debt for wages unpaid.
 27. Offences.
 28. Exemption of employer on conviction of actual offender.
 29. Register of wage payments, etc., to be kept by employer.
 30. Regulations.
 31. Deductions for provident or pension funds.
 32. Power of Minister to exempt.
 33. Prosecution to be instituted within one year of offence.
- Schedule Register of Wage Payments

An Act to provide for the protection of workers' wages, and for connected matters.

[Act No. 19 of 1973 amended by Act No. 14 of 1999.]

[15th September, 1973.]

1. Short title

This Act may be cited as the Protection of Wages Act.

2. Interpretation

In this Act—

“collective agreement” means a voluntary agreement, to regulate the wages, hours of work and other conditions of employment of one or more workers, made between an employer or employer’s organisation and one or more trade union representatives;

“contract” means an oral or written agreement, whether express or implied, whereby one person agrees to employ another and that other agrees to serve, in that person’s employment, as a worker in return for wages;

“employer” includes an individual, firm, corporation, company, or body of persons in contract with a worker, and their agent, manager, foreman or apprentice-master;

“manual labour” includes work (other than clerical work) ordinarily performed by a skilled or unskilled artisan, boatman, transport worker, domestic servant or other person in any other similar or associated work;

“wages” includes all remuneration and allowances payable to a worker for work or services performed or to be performed under a contract, but do not include—

- (a) the value of any housing, lighting, water, medical attention or other amenities provided at the sole expense of an employer;
- (b) contributions paid by an employer on his or her own account to a pension or provident fund scheme;
- (c) travelling allowance or the value of any travelling concession;
- (d) sums paid to a worker to defray special expenses incurred by him or her by the nature of his or her employment; or
- (e) gratuity payable on discharge or retirement from the service of an employer;

“worker” means a person who has entered into or works under a contract whether the contract be for manual labour, clerical work or otherwise, whether it be a contract of service or apprenticeship, or a contract personally to execute any work.

3. Repealed.

4. Repealed.

5. Agreements as to place and manner of spending wages illegal

An employer shall not impose in a contract any terms as to the place at which or the manner in which or the person with whom any wages paid to the worker are to be expended, and every contract between an employer and a worker containing such terms shall be illegal and void.

6. Repealed.

7. Repealed.

8. *Repealed.*

9. *Repealed.*

10. *Repealed.*

11. *Repealed.*

12. Interest, etc., on advance of wages prohibited

An employer shall make no deduction by way of discount, interest or any similar charge on account of any advance of wages made to a worker in anticipation of any following pay day.

13. Advances by way of loan

Subject to section 14, an employer may advance money by way of loan to a worker either before the commencement of his or her contract or in anticipation of the regular periodic payment of that worker's wages.

14. Limitation as to amount of money to be advanced

Advances of money made by employers to workers under the provisions of section 13 shall be in reasonable proportion to the wages received or anticipated by the worker concerned, so that—

- (a) in the case of a worker who ordinarily performs manual labour, the amount of such advance shall not be greater than six times the amount of wages received or anticipated by such worker;
- (b) in the case of a non-manual worker, the amount of such advance shall not be greater than ten times the amount of wages received or anticipated by such worker.

15. *Repealed.*

16. *Repealed.*

17. *Repealed.*

18. *Repealed.*

19. Unlawful advances to be irrecoverable

All advances made otherwise than in accordance with the provisions of this Act or regulations made hereunder shall be unlawful and shall be irrecoverable in a court whether by way of counterclaim, set-off or otherwise.

20. Saving as to judgement debts

During the period of his or her contract, a worker receiving an advance under this Act shall not by reason only of such advance be deemed to have or to have had means and ability to pay any sum due by him or her under a judgment of a court.

21. Agreements of co-operation excepted

Nothing in this Act shall be held to apply to a body of persons working pursuant to an agreement of co-operation.

22. Remuneration other than money

(1) Nothing in this Act shall render unlawful any agreement with a worker for the supply to him or her, as remuneration for his or her services, of wholesome food, a dwelling-house, or some other allowance or privilege in addition to money:

Provided that no employer shall give to a worker any intoxicating liquor or noxious drug by way of such remuneration.

(2) Such remuneration as is permitted under subsection (1) shall not at any time exceed the cash value of one-third of the worker's wages in respect of a completed pay period.

23. Repealed.

24. Provision for workers in the employment of contractors

(1) In the event of default made in the payment of wages due to a worker employed by a contractor, the worker may make representations to the Labour Commissioner and, upon furnishing evidence to the satisfaction of the Labour Commissioner in support thereof, the Labour Commissioner shall, failing payment by the contractor, require the payment of the wages due to the worker out of any moneys at any time payable to the contractor by a person for whom the contractor works or has worked and the amount of the wages so paid shall be deemed to be the payment of the contractor.

(2) A contractor, or person for whom a contractor works or has worked, who fails to make payment of wages as required by the Labour Commissioner acting in pursuance of subsection (1) shall be guilty of an offence and liable, on summary conviction, to a fine of three hundred dollars.

25. Limitations on attachment or seizure of wages

(1) Wages shall be liable to attachment or seizure in execution within the following limitations—

(a) up to one-half in respect of maintenance payments;

(b) up to one-third in respect of all other debts of any kind howsoever incurred.

(2) The limitations prescribed in subsection (1) shall not be applicable cumulatively on the grounds that there are several debts or several creditors.

(3) Wages attached or seized shall be divided among claimants in proportion to their established claims.

26. Priority of debt for wages unpaid

(1) Notwithstanding anything to the contrary contained in any other Act, sums owed by an employer to a worker by reason of non-payment of wages during the preceding six months shall constitute a debt of first priority over all other debts in respect of the property of the employer.

(2) In the event of the non-fraudulent bankruptcy, judicial liquidation or voluntary liquidation of the employer, the sums mentioned in subsection (1) shall be treated as debts of first priority.

27. Offences

An employer or his or her agent who—

- (a) enters into an agreement or contract or gives any remuneration for employment contrary to the provisions of this Act or declared by the provisions of this Act to be illegal;
- (b) makes any deduction from the wages of any worker or receives any payment from any worker contrary to the provisions of this Act; or
- (c) contravenes the provisions of section 14,

shall be guilty of an offence and liable, on summary conviction, to a fine of three hundred dollars or, for a second or subsequent offence, to a fine of four hundred dollars.

28. Exemption of employer on conviction of actual offender

(1) Where an employer is charged with an offence under this Act he or she shall be entitled, upon information duly laid by him or her, to have any other person whom he or she charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he or she has used due diligence to comply with or to enforce the relevant provisions of this Act and that the other person committed the offence in question without his or her knowledge, consent or connivance, the said offender shall be summarily convicted of the offence and the employer shall be exempt from penalty.

(2) If it is made to appear to the satisfaction of the Labour Commissioner at the time of discovering an offence that an employer has used due diligence to comply with or enforce the provisions of this Act and to ascertain and disclose the identity of the actual offender and if the Commissioner is satisfied also that it has been committed without the knowledge, consent or connivance of the employer, then the Labour Commissioner shall proceed against the person whom he or she believes to be the actual offender in the first instance without first proceeding against the employer.

(3) If, with the lodging of a complaint charging an offence under section 27(b), a notice in the prescribed form is served by the complainant in the prescribed manner on the employer, the magistrate may, on the offence being proved, order the employer or his or her agent to pay to the worker concerned that part of the wages found to have been deducted or, as the case may be, received as payment contrary to the provisions of that paragraph.

(4) Payment of any sum ordered by a magistrate to be paid under subsection (3) may be enforced in the manner prescribed in the Criminal Code Act, Chapter 72A.

(5) The power of a magistrate to make an order under subsection (3) shall not be in derogation of any right of the worker concerned to recover the sum by any other proceedings:

Provided that no worker shall be entitled in any other proceedings to recover any amount which a magistrate has ordered to be paid under the provisions of subsection (3).

29. Register of wage payments, etc., to be kept by employer

(1) Every employer shall keep a register of wage payments and workers' accounts in which shall be recorded the details specified in the Schedule, and every worker shall be entitled, on demand, to a copy of his or her account in any pay period; but employers shall not be required to keep a register under this subsection in respect of domestic servants.

(2) An employer who contravenes subsection (1) shall be guilty of an offence and liable, on summary conviction, to a fine of one hundred and fifty dollars.

30. Regulations

The Minister may make regulations for the better carrying out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may provide for—

- (a) the establishment, control and regulation of commissaries or shops operated by employers or any specified class of employer at places remote from towns or villages, including the control or prohibition of the sale of liquors to workers of such employers and the fixing and control of prices for goods sold thereat to workers of such employers;
- (b) the establishment, control and regulation of services operated by employers or any specified class of employer on behalf of their workers, including control of the cost to the worker of such services and the regulation of effective and adequate standards for the maintenance of such services.

31. Deductions for provident or pension funds

Notwithstanding anything in this Act an employer may with the consent of a worker make deductions from the wages of the worker and pay, to the appropriate person, contributions to any provident or pension fund or scheme agreed to by the worker and approved by the Labour Commissioner.

32. Power of Minister to exempt

The Minister may, by Order, exempt from all or any of the provisions of this Act any category of workers the duties of whose employment do not ordinarily require the performance of manual labour.

33. Prosecution to be instituted within one year of offence

No prosecution for an offence under this Act shall be instituted after the expiration of one year from the date of the commission of the offence.

Schedule

PROTECTION OF WAGES ACT

Register of Wage Payments

[Section 29.]

The register of wages payments and workers' accounts shall contain, in respect of every worker, the following details—

- (a) name and address;
- (b) periodicity of wages payments;
- (c) rate of wages;
- (d) method by which wages are calculated;
- (e) amount and date of any advance of wages;
- (f) rate, and the date of commencement, of repayment of any advance of wages;
- (g) description of remuneration other than money, and the assessed cash value of such remuneration;
- (h) any other detail required by regulations.

CHAPTER 260
PROTECTION OF WAGES ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
