

CHAPTER 103.

LABOUR.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Short title.
2. Interpretation.

PART I.—APPOINTMENT OF COMMISSIONER OF LABOUR AND STAFF.

3. Appointment of Commissioner of Labour and other officers and clerks.

PART II.—CONCILIATION.

4. Powers of Commissioner in case of trade disputes.
5. Exclusion of Cap. 38.
6. Power of Governor to appoint Advisory Committee in case of existing or apprehended trade dispute.

PART III.—REGULATION OF WAGES.

7. (1) Regulation of wages.
(2) Constitution.
8. (1) Order prescribing rates payable.
(6) Overtime rate.
9. (1) Procedure for making orders under section 8 (1) or (3). Notice of intention.
(2) Objections to draft order.
(3) Consideration by Governor in Council.
(4) Formal and informal inquiries.
(5) Amendment of draft order.
(6) Formal inquiry. Appearance of persons affected.
(7) Examination of witnesses on oath.
(9) Fee to person holding formal inquiry.
10. Record of wages to be kept.
11. (1) Conditions of employment of persons incapable of earning wages at prescribed rates.
(2) Employee to inform employer of duration of permit.
(3) Recovery of sums short-paid to persons employed under the preceding subsection.
12. (1) Penalty for not paying wages in accordance with prescribed rates.
(3) Offences by agents.
(4) Saving as to employer when agent convicted.
(5) Prevention of evasion.
13. Civil proceedings by Commissioner for payment of wages at prescribed rate.
14. Appointment of officers and power of entry and inspection.
15. Agreement in contravention of this Part void.

PART IV.—RIGHTS OF EMPLOYEES AND DUTIES AND OBLIGATIONS OF EMPLOYEES.

16. Definition.
17. Duration and mode of determination of contract.
18. Rates of wages to be notified by employer to employee.

PART V.—PAYMENT OF WAGES AND DEDUCTIONS THEREFROM.

SECTION.

19. (1) Contracts to pay wages otherwise than in money illegal.
(2) Wages to be paid entirely in money.
20. Employee's right to recover entire amount of his wages.
21. No contract to be made with employee as to spending wages at any particular shop, etc.
22. (1) Advances of money in anticipation of wages.
(2) Interest, discount, etc., on advances forbidden.
23. Saving.
24. Deductions from wages which are permitted.
25. Penalties.
26. Procedure for bringing actual offender before court when employer charged.
27. This Part to apply to domestic servants.

PART VI.—PROHIBITION OF PAYMENT OF WAGES IN RETAIL SPIRIT SHOP.

28. Wages not to be paid within retail spirit shop.
29. Offence.
30. This Part to apply to domestic servants.

PART VII.—ACCIDENTS.

31. Notification of accidents.
32. Application of provisions as to notice.
33. Power to hold formal investigation in case of serious accidents.
34. Application to Government Departments.

PART VIII.—HOURS OF WORK OF EMPLOYEES.

35. Power to make regulations as to hours of work in any occupation.

PART IX.—MISCELLANEOUS.

36. Remedy of employer against employee for not entering upon or commencing his service after having received an advance.
37. Abstracts of Ordinance and regulations to be displayed by employer.
38. General powers of Commissioner.
39. Obstruction of officer in execution of duty.
40. General power of Governor in Council to make regulations.
41. Penalty for breach of regulations.
42. Power of Governor in Council to make rules.
43. Extended jurisdiction.
44. Institution of prosecutions by Commissioner.
45. Procedure.
46. General penalty.
47. Expenses of execution of Ordinance. How defrayed.
48. No order for attachment of wages of certain employees.
49. Application of Ordinance.

CHAPTER 103.

LABOUR.

2 of 1942.

An Ordinance to provide for the appointment of a Commissioner of Labour, for the regulation of the relationship between employers and employees and for the settlement of differences between them.

[23RD JANUARY, 1942.]

Short title.

1. This Ordinance may be cited as the Labour Ordinance.

Interpretation.

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

“ contract ” or “ contract of service ” means any agreement, understanding, or arrangement whatever on the subject of wages, whether written or oral, whether direct or indirect, to which any employer and any employee are parties, or are assenting, or by which they are mutually bound to each other ;

“ complaint ” means a complaint or information under the Summary Jurisdiction Ordinances ;

“ employer ” includes attorney, agent, foreman, manager, clerk, and any other person engaged in the hiring, employing or superintending the labour or service of any employee ;

“ money ” means coin which for the time being is legal tender in the Colony, and includes Government currency notes and bank notes under the provisions of the Bank Notes Ordinance ;

“ occupation ” includes agriculture, business, commerce, industry and trade ;

“ trade dispute ” means any dispute between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment, or terms of the employment, or with the conditions of labour, of any person ;

“ wages ” means any money or other thing had or contracted to be paid, delivered, or given as a recompense, reward or remuneration for any work or labour done or to be done, whether within a certain time or to a certain amount, or for a time or an amount uncertain.

Cap. 285.

PART I.—APPOINTMENT OF COMMISSIONER OF LABOUR
AND STAFF.

3. (1) The Governor may appoint a Commissioner of Labour (hereinafter called “the Commissioner”), a Deputy Commissioner of Labour, and such Inspectors of Labour and Assistant Inspectors of Labour as he may consider necessary.

Appointment of Commissioner of Labour and other officers and clerks.

(2) He may also appoint such officers and clerks in the Department of the Commissioner as may be required.

(3) The Deputy Commissioner of Labour shall act as assistant generally to the Commissioner in the performance of his duties.

(4) In the absence of the Commissioner, the Deputy Commissioner of Labour shall have all the powers and may perform all the duties of the Commissioner.

(5) The Inspectors and Assistant Inspectors of Labour and the officers and clerks shall perform such duties as may be assigned to them by the Commissioner.

PART II.—CONCILIATION.

4. (1) Where a difference exists or is apprehended between an employer or any class of employers, and employees, or between different classes of employees, the Commissioner may, if he thinks fit, exercise all or any of the following powers, namely—

Powers of Commissioner in case of trade disputes.

(a) inquire into the causes and circumstances of the difference ;

(b) take such steps as to him may seem expedient for the purpose of promoting a settlement of the difference ;

(c) with the consent of both parties to the difference refer the matter for settlement to the arbitration of one or more persons appointed by the Governor in Council.

(2) If any person is so appointed to act as arbitrator, he shall inquire into the causes and circumstances of the difference by communication with the parties, and otherwise shall endeavour to bring about a settlement of the difference, and shall report his proceedings to the Commissioner.

(3) If a settlement of the difference is effected either under the provisions of paragraph (b) of subsection (1) of this section or by arbitration, a memorandum of the terms thereof shall be drawn up and signed by the parties or their representatives, and a copy thereof shall be delivered to and kept by the Commissioner.

Exclusion of
Cap. 38.

5. (1) The Arbitration Ordinance shall not apply to the settlement by arbitration of any difference or dispute under section 4 of this Ordinance.

(2) The Governor in Council may make Regulations for the conduct of arbitration proceedings under section 4 of this Ordinance.

Power of
Governor to
appoint
Advisory
Committee
in case of
existing or
apprehended
trade
dispute.

6. (1) Where any trade dispute exists or is apprehended the Governor may, if he thinks fit, refer any matters appearing to him to be connected with, or relevant to, such dispute or apprehended dispute to an Advisory Committee appointed by him for the purpose of such reference, and the Committee shall inquire into the matters referred to it and shall report thereon, and make such recommendations as it may deem expedient, to the Governor.

(2) An Advisory Committee shall consist of a chairman and such number of members as the Governor may, in his discretion, deem expedient.

PART III.—REGULATION OF WAGES.

Regulation
of wages.

7. (1) Whenever the Governor in Council deems it expedient that steps should be taken to regulate the wages paid in any occupation in the Colony or any part thereof he may appoint an Advisory Committee to investigate the conditions of employment in such occupation and to make recommendations as to the minimum rates of wages which should be payable.

Constitution.

(2) The Advisory Committee shall include representatives of employers and employees and such other members as the Governor in Council may deem fit.

Order
prescribing
rates
payable.

8. (1) On considering the recommendations of the Committee the Governor in Council may, if he thinks fit, make an order prescribing the minimum rates of wages payable.

(2) The order may prescribe time-rates, piece-rates and overtime rates, or any of them.

(3) The Governor in Council may, by a subsequent order, revoke or vary the provisions of any previous order.

(4) When a rate of wage is prescribed in respect of a part of the Colony the boundaries thereof shall be set out in the order.

(5) Any such rate as aforesaid or the revocation or variation of any such rate shall become effective on the date on which the order is published in the Gazette or on such earlier or later date as is specified in that behalf in the order :

Provided that—

(a) no date earlier than that on which the order is published in the Gazette shall be specified in any order under the provisions of this subsection unless the Governor in Council is satisfied that the circumstances of the case are such as to justify specially favourable treatment ; and

(b) no date shall be so specified which is more than one month anterior to the date on which the order is published in the Gazette.

(6) The expression “ overtime rate ” means a rate (whether a time-rate or a piece-rate) to apply, in substitution for the prescribed rate which would otherwise be applicable, in respect of hours worked by an employee in any week or on any day in excess of the number of hours declared in regulations made by the Governor in Council under the provisions of this Ordinance to be the normal number of hours per week or for that day in the occupation. Overtime rate.

(7) Every order made under subsections (1) and (3) of this section shall be laid as soon as may be after it is made before the Legislative Council, and if the Legislative Council within the next thirty days after the order has been so laid before it resolves that the order shall be annulled, the order shall, after the date of that resolution, be of no effect, without prejudice to the validity of anything done in the meantime under the order or to the making of a new order.

9. (1) Before the Governor in Council makes an order under subsection (1) or subsection (3) of section 8 of this Ordinance, he shall, in such manner as he thinks best adapted for informing persons affected, cause to be published notice of his intention to make the order, of the place where copies of the draft order may be obtained, and of the time, which shall not be less than thirty days, within which any objection made with respect to the draft order must be sent to the Clerk of the Council. Procedure for making orders under s. 8 (1) or (3). Notice of intention.

(2) Every objection must be in writing, and must state— Objections to draft order.

(a) the specific grounds of objection ; and

(b) the omissions, additions or modifications asked for.

(3) The Governor in Council shall consider any objection which is made by or on behalf of any persons appearing to him to be affected and which is sent to him within the time fixed in that behalf. Consideration by Governor in Council

Formal and
informal
inquiries.

(4) Before confirming the draft order the Governor in Council—

(a) may appoint a competent person to hold an inquiry with regard to any draft order and to report to him thereon ;
or

(b) may make such other or further inquiries as he deems necessary either through the medium of the Advisory Committee or otherwise.

Amendment
of draft
order.

(5) After considering all the objections made and the report of any inquiry held or made under the foregoing provisions of this section, the Governor in Council may, if he thinks fit, amend the draft order.

Formal
inquiry.
Appearance
of persons
affected.

(6) On an inquiry held under the provisions of paragraph (a) of subsection (4) of this section the Commissioner or any officer of the department of the Commissioner who may be appointed by the Governor in that behalf and any objector or other person who appears to the person holding the inquiry to be affected or the agent of such objector or other person may appear at the inquiry.

Examina-
tion of
witnesses
on oath.

(7) The witnesses at such inquiry may, if the person holding it thinks fit, be examined on oath, which oath that person is hereby authorised to administer.

(8) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with regulations made by the Governor in Council.

Fee to
person
holding
formal
inquiry.

(9) The fee to be paid to the person holding the inquiry shall be such as the Governor in Council may direct, and shall be deemed to be part of the expenses of the Commissioner in the execution of this Part of this Ordinance.

Record of
wages to be
kept.

10. It shall be the duty of every employer in an occupation in respect to which rates of wages have been prescribed to keep such records of wages as are necessary to show that the provisions of this Part of this Ordinance are being complied with in respect of persons in his employment, and if he fails to do so he shall be liable on summary conviction in respect of each offence to a fine not exceeding ten dollars, and also to a fine not exceeding five dollars for every day during which the default continues after conviction.

Conditions
of employ-
ment of
persons
incapable
of earning
wages at
prescribed
rates.

11. (1) If, on application in that behalf the Commissioner is satisfied that any employee employed or desiring to be employed in any occupation on time-work to which a prescribed rate is applicable is affected by any infirmity or physical injury which renders him incapable of earning that prescribed rate, the Commissioner may, if he thinks fit, grant to the employee, subject

to such conditions, if any, as he may prescribe, a permit exempting the employment of the employee from the provisions of this Part of this Ordinance relating to the payment of wages at less than the prescribed rate, and while the permit is in force the employer shall not be liable to any penalty for paying wages to the employee at a rate less than the prescribed rate so long as the conditions prescribed by the Commissioner on the grant of the permit are complied with.

(2) Where the duration of any permit granted to an employee under subsection (1) of this section is limited the employee shall give written notice to the employer of the date on which the permit is due to expire.

Employee to inform employer of duration of permit.

(3) Where a permit granted in respect of an employee under subsection (1) of this section contains a condition for the payment of wages to the employee at a rate not less than the rate therein specified, the amount of wages that may be recovered from an employer of the employee pursuant to subsection (2) of section 12 of this Ordinance shall as respects any period during which the permit had effect, be calculated on the basis of the rate so specified instead of on the basis of the prescribed rate.

Recovery of sums short-paid to persons employed under the preceding subsection.

12. (1) Where in any occupation rates of wages have been prescribed an employer shall in cases to which the prescribed rate is applicable pay wages to the person employed at not less than such rate clear of all deductions save as in this Ordinance prescribed and if he fails to do so he shall be liable on summary conviction to a fine not exceeding fifty dollars and on a second or subsequent conviction to a fine not exceeding one hundred and fifty dollars.

Penalty for not paying wages in accordance with prescribed rates.

(2) Where an employer has been convicted under this section for failing to pay wages at not less than the prescribed rate to any employee, then, if notice of intention so to do has been served with the summons or warrant, evidence may be given of any failure on the part of the employer to pay wages at not less than the prescribed rate to that employee at any time during the six months immediately preceding the date on which the information was laid or the complaint made, and on proof of the failure the court may, by the conviction, order the employer to pay such sum as in the opinion of the court represents the difference between the amount which, having regard to the provisions of this Part of this Ordinance, ought properly to have been paid to the employee by way of wages during those months and the amount actually so paid :

Provided that the power to order the payment of wages under this subsection shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

Offences by agents.

(3) Where an offence for which an employer is by virtue of this Part of this Ordinance liable to a fine has in fact been committed by some agent of the employer or other person, that agent or other person shall be liable to be proceeded against for the offence in the same manner as if he were the employer, and either together with or before or after the conviction of the employer, and shall be liable on conviction to the same punishment as that to which the employer is liable.

Saving as to employer when agent convicted.

(4) Where an employer who is charged with an offence against this Part of this Ordinance proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Part of this Ordinance, and that the offence was in fact committed by his agent or some other person without his knowledge, consent or connivance, he shall, in the event of the conviction of that agent or other person for the offence, be exempt from any fine in respect of the offence, without prejudice, however, to the power of the court under subsection (2) of this section to adjudge him to pay any sum which appears to the court to be due to the person employed on account of wages.

Prevention of evasion.

(5) Any shopkeeper, dealer, or trader, who by way of trade makes any arrangement, express or implied, with any employee in pursuance of which the employee performs any work for which a prescribed rate of wages has been fixed, shall be deemed for the purposes of this Part of this Ordinance to be the employer of the employee, and the net remuneration obtainable by the employee in respect of the work after allowing for his necessary expenditure in connection with the work shall be deemed to be wages.

(6) Where the immediate employer of any employee to whom a prescribed rate of wages applies is himself in the employment of some other person, and that employee is employed on the premises of that other person, that other person shall for the purposes of the provisions of this section be deemed to be the employer of the employee jointly with the immediate employer.

(7) On any prosecution of a person for failing to pay wages at not less than the prescribed rate, it shall lie on that person to prove by the production of the proper wages sheets or other records of wages or otherwise that he has not paid wages at less than the prescribed rate.

13. Where it appears to the Commissioner, or to any officer appointed under this Part of this Ordinance or to any officer of any Government Department for the time being assisting in carrying this Part of this Ordinance into effect, that any sum is due by an employer to an employee by reason of the fact that wages have been paid to that employee at less than the prescribed rate applicable, and that it is not possible to recover the sum so appearing to be due, or some part of that sum, by means of proceedings under section 12 of this Ordinance, the Commissioner, or that officer, if he is authorised in that behalf by special or general directions of the Commissioner, may, if it appears expedient so to do by reason of the refusal or neglect of the employee to take the necessary proceedings, on behalf of and in the name of the employee, institute civil proceedings before any court of competent jurisdiction for the recovery of the said sum :

Civil proceedings by Commissioner for payment of wages at prescribed rate.

Provided always that the court before which any such civil proceedings are instituted by the Commissioner or by any such officer as aforesaid shall have the same power to make an order for the payment of costs by the Commissioner or officer as if the Commissioner or officer were a party to the proceedings.

14. (1) The Governor may appoint such officers as he may think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of the provisions of this Part of this Ordinance.

Appointment of officers and power of entry and inspection.

(2) Any such officer shall have power to enter at all reasonable times upon the premises of any employer in an occupation to which a prescribed rate is applicable and to require the production of wages sheets or other record of wages by any such employer and to inspect and examine the same and copy any material part thereof.

(3) If any person on being required to do so by any such officer fails or refuses to produce any wages sheet or other record of wages, that person shall be liable on summary conviction in respect of each offence to a fine not exceeding fifty dollars ; and if any person makes or causes to be made or knowingly allows to be made any wages sheet or record of wages or record of payments which is false in any material particular or produces or causes to be produced or knowingly allows to be produced any such sheet or record to any officer acting in exercise of the powers given by this section knowing the same to be false, he shall be liable on summary conviction to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months.

(4) The Commissioner, the Deputy Commissioner of Labour, the Inspectors and Assistant Inspectors of Labour shall, without further appointment, be officers for the purposes of subsection (1) of this section.

Agreement
in contra-
vention of
this Part
void.

15. Any agreement for payment of wages in contravention of this Part of this Ordinance shall be void.

PART IV.—RIGHTS OF EMPLOYEES AND DUTIES AND OBLIGATIONS OF EMPLOYERS.

Definition.

16. In this Part of this Ordinance, unless the context otherwise requires—

Cap. 118.

“employee” does not include domestic servant, shop assistant as defined in section 2 of the Shops Regulation Ordinance, clerk, outworker, any railway worker in receipt of a salary of more than sixty dollars *per mensem*, a member of the employer’s family dwelling in his house or a person whose employment is of a casual nature but, save as aforesaid, means any person, who—

(a) being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, porter, warehouseman, dress-maker or milliner ; or

(b) being employed in the manufacture of sugar, in rice milling, in any boat or punt, in any mining or quarrying operations or in any road transport operations, has entered into or works under a contract of service or apprenticeship with an employer.

Duration
and mode of
determina-
tion of
contract.

17. (1) Where there is no agreement to the contrary a contract of service shall be deemed to be a contract for one month certain from the time of entering into the service.

(2) Every such contract may at any time be terminated—

(a) by mutual consent of the parties ;

(b) by either party—

(i) for good or sufficient cause ; or

(ii) in the absence of any agreement to the contrary, by fourteen days’ notice given to or served upon the other party.

(3) Every contract shall be terminated by the death of the employee :

Provided that such termination shall be without prejudice to the legal claims of his heirs, dependants or personal representatives.

18. Where an employer offers any work to an employee, he shall inform him, either at the time of the offer or as soon thereafter on the same day as may be practicable, whether he is to be paid for his services by the task or by the day, and at what rate for the task or day, as the case may be.

Rates of wages to be notified by employer to employee.

PART V.—PAYMENT OF WAGES AND DEDUCTIONS THEREFROM.

19. (1) Except where otherwise permitted by the provisions of this Part of this Ordinance in every contract for the hiring of any employee, or for the performance by any employee of any labour, the wages of such employee shall be payable in money only, and not otherwise, and if in any such contract the whole or any part of such wages is payable in any manner other than in money, such contract shall be and is hereby declared illegal, null and void.

Contracts to pay wages otherwise than in money illegal.

(2) Except where otherwise permitted by the provisions of this Part of this Ordinance, the entire amount of the wages earned by or payable to any employee in respect of any work done by him shall be actually paid to him in money and not otherwise.

Wages to be paid entirely in money.

20. Every employee shall be entitled to recover from his employer the whole or so much of the wages earned by such employee, exclusive of sums lawfully deducted in accordance with the provisions of this Part of this Ordinance, as shall not have been actually paid to him by his employer in money.

Employee's right to recover entire amount of his wages.

21. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any employee, any terms as to the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid or payable to the employee are or is to be expended, and no employer shall by himself or his agent dismiss any employee from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid or payable by the employer to such employee are or is to be expended or fail or fails to be expended.

No contract to be made with employee as to spending wages at any particular shop, etc.

22. (1) Subject to the provisions of this Part of this Ordinance, an employer may make advances of money to his employee in anticipation of the regular period of payment of his wages.

Advances of money in anticipation of wages.

(2) Whenever any advance of money is made by an employer to an employee, it shall not be lawful for the employer to make any deduction in respect of such advance on account of poundage, discount, interest, commission, or any similar charge.

Interest, discount, etc., on advances forbidden.

Saving.

23. Nothing contained in this Part of this Ordinance shall render illegal a contract with an employee for giving to him food, drink not being intoxicating, a house, cottage, tenement or room, or other allowances or privileges in addition to money wages as a remuneration for his services.

Deductions
from wages
which are
permitted.

24. Nothing contained in this Part of this Ordinance shall extend, or be construed to extend, to prevent any employer or agent of such employer, from making, or contracting to make, any stoppage or deduction from the wages of any employee for or in respect of—

(a) any unpaid rent of any land, house, cottage, tenement or room demised or let by the employer to the employee ; or

(b) any grazing fee due by the employee to the employer ; or

(c) any medicine or medical attendance supplied by the employer to the employee at the latter's request ; or

(d) the actual or estimated cost to the employer of any materials, tools and implements supplied by the employer to the employee at the latter's request to be employed by him in his occupation ; or

(e) any victuals supplied by the employer to the employee at the latter's request ; or

(f) the actual or estimated cost to the employer of any goods supplied by the employer to the employee for the personal use of the employee ; or

(g) any money advanced by the employer to the employee, (whether paid to the employee himself or to some other person at his request) in anticipation of the regular period of payment of his wages :

Provided that the total amount which may be stopped or deducted from the wages of an employee in any one month under the provisions of this paragraph shall not exceed one-third of the wages of the employee in that month.

Penalties.

25. If any employer or his agent contravenes or fails to comply with any of the provisions of this Part of this Ordinance, such employer or agent, as the case may be, shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding twenty-five dollars for the first offence, to a penalty not exceeding fifty dollars for the second offence, and in case of a third or subsequent offence, to a penalty not exceeding two hundred and fifty dollars.

26. (1) Where an employer is charged with an offence against this Part of this Ordinance, he shall be entitled, upon information duly laid by him, to have any other person whom he 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 had used due diligence to enforce the execution of this Part of this Ordinance, and that the said other person had committed the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of such offence, and shall be liable to the same penalty as that to which the employer, if convicted, would have been liable and the employer shall be exempt from any penalty.

Procedure for bringing actual offender before court when employer charged.

(2) When it is made to appear to the satisfaction of the Commissioner, at the time of discovering the offence, that the employer had used due diligence to enforce the execution of this Part of this Ordinance, and also by what person such offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the employer, then the Commissioner shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

27. This Part of this Ordinance shall apply to domestic and menial servants.

This Part to apply to domestic servants.

PART VI.—PROHIBITION OF PAYMENT OF WAGES IN RETAIL SPIRIT SHOPS.

28. No wages shall be paid to any employee at or within any retail spirit shop, tavern or place for the sale of any spirits, rum, wine, beer or other spirituous or fermented liquor, or any office, or place belonging thereto or occupied therewith, save and except such wages as are paid by the resident owner or occupier of such retail spirit shop, tavern or place to any employee *bonâ fide* employed by him.

Wages not to be paid within retail spirit shop.

29. Every person who contravenes or fails to comply with or permits any person to contravene or fail to comply with any of the provisions of the preceding section shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding fifty dollars for each offence.

Offence.

30. This Part of this Ordinance shall apply to domestic and menial servants.

This Part to apply to domestic servants.

PART VII.—ACCIDENTS.

Notification
of accidents.

31. (1) Where there occurs in any occupation to which this section applies any accident which either—

(a) causes loss of life to any person employed therein ; or

(b) disables any such person for more than twenty-four hours from earning full wages at the work at which he was employed,

written notice of the accident shall be sent, in the prescribed form, by the employer to the Commissioner within six days of the receipt of the notice required to be given under subsection (3) of this section.

(2) Where any accident causing disablement is notified under this section, and after notification thereof results in the death of the person disabled, notice in writing of the death shall be sent by the employer to the Commissioner as soon as the death comes to his knowledge.

(3) Notice in respect of an accident causing disablement shall be given by the person disabled to the employer, or any other person designated by the employer for the purpose, as soon as practicable after the occurrence thereof.

(4) A register of accidents in the prescribed form shall be kept by the employer engaged in any occupation to which this section applies.

(5) If any employer wilfully makes default in complying with the requirements of this section he shall be liable on summary conviction to a fine not exceeding twenty-five dollars.

(6) If any person employed fails without reasonable cause to give notice of an accident as required by this section he shall be liable on summary conviction to a fine not exceeding five dollars.

Application
of provisions
as to notice.

32. (1) If the Governor in Council is of opinion that any occupation is specially dangerous to life or limb, the Governor in Council may, by order, direct that section 31 of this Ordinance shall apply to that occupation, and thereupon, while the order is in force, that section shall apply accordingly.

(2) The Governor in Council may, by a subsequent order, revoke or vary the provisions of any previous order made under this section.

(3) Every order made under this section shall be published in the Gazette and shall be laid before the Legislative Council as soon as may be after it is made, and if the Legislative Council

within the next thirty days after the order has been so laid resolve that the order shall be annulled, the order shall, after the date of that resolution, be of no effect.

33. Where it appears to the Governor in Council that any accident involving loss of life or bodily injury is of sufficient importance to require a formal investigation of the accident, and of its causes and circumstances, the Governor in Council may, by order, direct such investigation to be held, and with respect to any such investigation the following provisions shall have effect :—

Power to hold formal investigation in case of serious accidents.

(a) the Governor may appoint a competent person to hold the investigation, and may appoint any person possessing legal, medical, engineering or other special knowledge, to act as assessor in holding the investigation, and may assign to any such person such remuneration as he may determine ;

(b) the person appointed to hold the investigation (hereinafter called the court) shall hold the same in open court in such manner and under such conditions as the court may think most effectual for ascertaining the causes and circumstances of the accident, and enabling the court to make the report in this section mentioned ;

(c) the court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in the exercise of its ordinary jurisdiction, and all the powers of an inspector under the Companies Ordinance, and in addition the following powers, namely :—

Cap. 328.

(i) power to enter and inspect, or to authorise any person to enter and inspect, any place or building the entry or inspection whereof appears to the court requisite for the said purpose ;

(ii) power by summons issued by the court to require the attendance of all such persons as it thinks fit to call before it and examine for the said purpose, and for that purpose to require answers or returns to such inquiries as it thinks fit to make ;

(iii) power to require the production of all books, papers and documents which it considers important for the said purpose ;

(iv) power to administer an oath and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination ;

(d) every person attending as a witness before the court, and not being the employer of the person killed or injured, or in the employment of that employer, shall be allowed such expenses as would be allowed to a witness attending before the Supreme Court in its civil jurisdiction, and in case of dispute as to the amount to be allowed the same shall be referred by the court to the Registrar of the Supreme Court, who on request signed by the court shall ascertain and certify the proper amount of the expenses ;

(e) the court holding an investigation under this section shall make a report to the Governor in Council, stating the causes of the accident and its circumstances, and adding any observations which the court thinks fit to make, and the Governor in Council may cause any such report to be made public in such manner as he thinks fit ;

(f) the court may order any costs and expenses incurred in and about an investigation under this section (including any remuneration payable to any person appointed to hold the investigation or to act as assessor) to be paid by any person summoned before it, if it finds that the accident was due to the act or default or negligence of that person ; and any such order shall, on the application of any person entitled to the benefit thereof, be enforced by any court of summary jurisdiction as if the costs and expenses were a penalty imposed by the court : but subject to any such order such costs and expenses shall be deemed to be part of the expenses of the Government of the Colony in the execution of this section ;

(g) the expenses of the Government in the execution of the provisions of this section shall be defrayed out of moneys to be provided by the Legislative Council ;

(h) if any person without reasonable excuse (proof whereof shall lie on him) either fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this section, or prevents or impedes the court in the execution of its duty, he shall for every such offence be liable, on summary conviction, to a fine not exceeding fifty dollars, and in the case of a failure to comply with a requisition for making any return or producing any document shall be liable on summary conviction to a fine not exceeding fifty dollars for every day that such failure continues ;

(i) if any witness objects to answer any question or to produce any document on the ground that it may tend to

incriminate him, or on any other lawful ground, he shall not be required to answer such question or to produce such document, nor shall he be liable to any penalty in respect of such refusal.

34. This Part of this Ordinance shall apply in the case of accidents occurring to persons employed by a department of the Government, and in such cases the notice to be given by the employer shall be given by such person as the Governor may direct.

Application to Government Departments.

PART VIII.—HOURS OF WORK OF EMPLOYEES.

35. (1) The Governor in Council may make regulations prescribing the number of hours which may normally be worked by an employee in any week or on any day in any occupation, and the time to be allowed by an employer to his employee for his meals.

Power to make regulations as to hours of work in any occupation.

(2) In any such regulations the prescribed number of hours may vary—

(a) in respect of different periods of the year ;

(b) according to the season, where the carrying on of an occupation is influenced by seasons ;

(c) in respect of different branches or processes of an occupation ;

(d) in respect of men, women, children of or under the age of fourteen years, and young persons over the age of fourteen years and under the age of sixteen years ; and

(e) in respect of different parts of the Colony.

(3) The provisions of this section shall not apply to a shop assistant as defined in section 2 of the Shops Ordinance.

Cap. 118.

PART IX.—MISCELLANEOUS.

36. (1) If any employee, having made a contract in writing with an employer to serve him for a time certain or uncertain, and having received from his employer any sum of money by way of an advance of wages, fails or refuses, without good or sufficient cause, to enter upon or commence his service under the contract, he shall be liable, on summary conviction, to a fine not exceeding ten dollars.

Remedy of employer against employee for not entering upon or commencing his service after having received an advance.

(2) It shall be a defence to a complaint under the preceding subsection that the employee has repaid, or tendered, to the employer the amount of the advance.

(3) The magistrate before whom any complaint under subsection (1) of this section is heard may suspend the operation of any order made under that subsection for a period to be specified in the order, in order that the employee may enter upon and commence his service, and if the employee enters upon and commences his service according to the contract, the order shall not be carried into effect.

(4) If it is shown to the satisfaction of the magistrate that the employee has failed to enter upon and commence his service according to the contract, the magistrate may cause the employee to be brought before him to show cause why the order should not be carried into effect and, if the employee fails to show good or sufficient cause for his failure to enter upon or to commence his service according to the contract, the magistrate may direct that the order shall be carried into effect.

Abstracts of
Ordinance
and
regulations
to be
displayed by
employer.

37. (1) Every employer shall display, or cause to be displayed, and shall keep displayed, at some conspicuous place on his premises, a notice containing such provisions of this Ordinance and of any regulations made thereunder, as may be prescribed by the Governor in Council.

(2) The employer shall at all times keep the notice in such condition and position that it can easily be read by his employees.

(3) If any employer contravenes any of the requirements of this section he shall be liable on summary conviction to a fine not exceeding fifty dollars.

General
powers of
Com-
missioner.

38. (1) The Commissioner, the Deputy Commissioner of Labour, any Inspector or any Assistant Inspector of Labour is empowered and authorised :—

(a) to visit and inspect any premises in which labour is employed, and to obtain and to require from any employer information as to the wages, hours and conditions of work of those so employed ;

(b) to require from employers generally returns giving information as to the wages, hours and conditions of work of their employees ; and

(c) to inspect the register of accidents kept in pursuance of section 31 and to obtain and to require from an employer information as to the causes and circumstances relating to any accident that may have occurred on the employer's premises.

(2) Any person who, without good and sufficient cause, fails, on application being made to him in writing therefor, to furnish to the Commissioner or other officer any of the information or any of the returns specified in subsection (1) of this section shall be liable on summary conviction in respect of each offence to a fine not exceeding fifty dollars; and any person who knowingly furnishes or allows to be furnished to the Commissioner or other officer any information or return which is false in any material particular, shall be liable on summary conviction in respect of each offence to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months.

39. Any person who hinders, molests or obstructs any officer in the execution of his duty under this Ordinance shall be liable on summary conviction to a fine not exceeding one hundred and fifty dollars or to imprisonment for a term not exceeding three months.

Obstruction of officer in execution of duty.

40. The Governor in Council may make regulations—

(a) prescribing the form in which the information and the returns in subsection (1) of section 38 of this Ordinance mentioned shall be furnished to the Commissioner;

General power of Governor in Council to make regulations.

(b) prescribing the form in which pay-lists and statistics of earnings of employees and of deductions made therefrom in any occupation shall be kept by the employer;

(c) prescribing any other form required for the purposes of this Ordinance; and

(d) generally for the purposes of this Ordinance.

41. There may be annexed to the breach of any regulation made under the provisions of this Ordinance a penalty not exceeding the sum of one hundred and fifty dollars.

Penalty for breach of regulations.

42. The Governor in Council may make rules—

(a) regulating the procedure to be followed by Advisory Committees appointed under this Ordinance;

Power of Governor in Council to make rules.

(b) regulating the amount, and payment, of remuneration, fees, costs and expenses in respect of any inquiry by an Advisory Committee under this Ordinance;

(c) regulating or prohibiting the publication of reports submitted by Advisory Committees appointed under this Ordinance and the publication of any evidence given before such Committees; and

(d) generally to give effect to the provisions of this Ordinance relating to the holding of inquiries by Advisory Committees.

Extended jurisdiction.

43. Any proceeding under this Ordinance may be taken in the magistrate's court of the district in which the contract is made or of the district in which the offence or breach is alleged to have been committed.

Institution of prosecutions by Commissioner.

44. The Commissioner may institute or cause to be instituted any prosecution for the purpose of enforcing any of the provisions of this Ordinance and any officer of the Department of Labour may appear as prosecutor for and on behalf of the Commissioner.

Procedure.

45. All complaints under this Ordinance may be heard and determined and all offences and penalties may be prosecuted and enforced in the manner provided by the Summary Jurisdiction Ordinances:

Provided that any order for the payment or recovery of wages or compensation shall be enforceable in the same manner as an order for the payment of compensation under the Summary Jurisdiction (Procedure) Ordinance.

Cap. 15.

General penalty.

46. Any person who by any act or omission contravenes or fails to comply with any provision of this Ordinance shall, unless a penalty is otherwise specifically provided, be liable to pay a fine not exceeding fifty dollars.

Expenses of execution of Ordinance. How defrayed.

47. The expenses of the Commissioner in the execution of the provisions of this Ordinance shall be defrayed out of moneys provided from time to time by the Legislative Council for the purpose.

No order for attachment of wages of certain employees.

48. No order for the attachment of the wages of any servant (including domestic and menial servants), labourer or workman shall be made by the Supreme Court or by a magistrate's court.

Application of Ordinance.

49. This Ordinance shall not apply to persons when employed in the naval, military or air forces of the Crown or in the police force or to any member of the British Guiana Militia Band or Volunteer Force in respect of his service in either such force and, except where herein otherwise expressly provided, shall not apply to domestic or menial servants.