



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 18.28

## PROTECTION OF WAGES ACT

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### PROTECTION OF WAGES ACT

Act 6 of 1967 ... in force 12th October 1967

Amended by: Act 1 of 1972

Act 1 of 1980

Page

3



**CHAPTER 18.28**

**PROTECTION OF WAGES ACT**

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
3. Agreement to pay wages otherwise than in money illegal
4. Agreement as to place or manner of spending wages illegal
5. Wages to be paid entirely in money, and on working day
6. Wages to be paid directly to worker
7. Wages not to be paid in liquor or on certain premises
8. Wages to be paid at regular intervals
9. Payment of wages on termination of contract
10. Remuneration other than wages
11. Workers right to recover
12. Wages in cases of bankruptcy
13. Rates of wages to be notified by employer to worker
14. Register of wage payments
15. Limitation of advances of wages
16. Interest on advances prohibited
17. Illegal advances to be irrecoverable
18. Deductions or payments in respect of fines restricted
19. Certain deductions authorised
20. Deductions for obtaining or retaining employment prohibited
21. Saving as to judgment debts
22. Limitations on attachment or seizure of wages
23. Co-operative work
24. Penalty
25. Actual offender to be proceeded against
26. Power to make regulations
27. Prosecution to be instituted within one year of offence



## **CHAPTER 18.28**

### **PROTECTION OF WAGES ACT**

AN ACT TO MAKE PROVISION FOR THE PROTECTION OF WAGES OF WORKERS; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

#### **Short title.**

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

#### **Interpretation.**

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

“Labour Commissioner” has the meaning assigned to it in the Labour Act, Cap. 18.18;

“work” includes work ordinarily performed by mechanics, artisans, handicraftsmen, seamen, boatmen, longshore-men, transport workers, domestic servants and all labourers and any other similar work associated therewith, including workers in the catering trades and in clerical offices or organisations connected with any of the aforementioned trades or businesses;

“worker” means a person employed in the activities mentioned under the aforesaid term “work”.

*(Amended by Act 1 of 1972)*

#### **Agreement to pay wages otherwise than in money illegal.**

3. In every agreement or contract for the hiring of any worker, or for the performance by any such worker of any work within the State except as otherwise provided in this Act, the wages of any such worker shall be made payable in Eastern Caribbean currency, or, with the consent in writing of the worker concerned, in any other currency which is legal tender in the State and not otherwise, and if in any such agreement or contract the whole or any part of such wages shall be made payable in any other manner, such agreement or contract shall be illegal, null and void.

#### **Agreement as to place or manner of spending wages illegal.**

4. (1) No employer shall by himself or herself or by his or her agent impose in any agreement or contract written or unwritten for the employment of any worker any terms as to the place or the manner in which, or the person with whom, any wages or portion of wages paid to the worker are or is to be expended, and every such agreement or contract between an employer and a worker wherein any such terms are expressed or implied shall be illegal, null and void.

(2) Where stores for the sale of commodities to the workers are established or services are operated in connection with any undertaking, the workers concerned shall not be compelled either directly or indirectly to make use of such stores or services.

(3) Any employer or other person who, directly or indirectly, imposes, as a condition of the payment of any wages or advance to a worker or to any member of his or her family, any order or agreement as to the place or the manner in which or the person with whom any portion of such wages or advance is to be expended, commits an offence against this Act.

**Wages to be paid entirely in money, and on working day.**

5. (1) Except where otherwise permitted by the provisions of this Act, the entire amount of the wages earned by or payable to any worker in respect of any work done by him or her shall be actually paid to him or her in legal tender, and every payment of or on account of any such wages made in any other form shall be illegal, null and void:

Provided that the Labour Commissioner may permit or prescribe the payment of wages by bank cheque, or postal order or money order in cases where payment in this manner may be desirable, or where any collective agreement or arbitration award so provides, or where the consent of the worker so to do is obtained.

(2) Except where otherwise expressly permitted by the provisions of this Act, the payment of wages where made in legal tender shall be made on working days only and at or near the work-place.

**Wages to be paid directly to worker.**

6. Wages shall be paid directly to the worker to whom they are due or to a person specified by him or her in writing except as is provided in section 22.

**Wages not to be paid in liquor or on certain premises.**

7. No employer shall give to any worker any intoxicating liquor by way of remuneration for his or her services, or pay wages to any worker in any retail shop or place for the sale of any intoxicating liquor, wine, beer or other spirits, or in any shops or stores for the sale of merchandise, or in any place of amusement, or in any office or place belonging to or connected to any of the places aforementioned:

Provided that nothing in this Act shall be construed to prevent a worker from receiving his or her wages in any of the abovementioned places if he or she is *bona fide* employed therein.

**Wages to be paid at regular intervals.**

8. Wages shall be paid at regular intervals and shall be due to be paid—

- (a) not less often than once a week, in the case of workers whose wages are fixed by the hour or day or week;
- (b) not less often than once a fortnight, in the case of workers whose wages are fixed on a fortnightly basis;
- (c) not less often than once a month, in the case of workers whose wages are fixed on a monthly or annual basis; or
- (d) in the case of workers employed to perform a task the completion of which requires two weeks or more, not less often than once a fortnight in proportion to the amount of work completed:

Provided that the provisions of this section shall not apply where an agreement is entered into between an employer or employers or organisations of employers, on the one hand, and trade unions representative of the workers concerned, on the other, fixing other intervals for the payment of wages.

**Payment of wages on termination of contract.**

9. (1) If a contract of service is terminated not less than one week before wages in respect of that contract of service become due to be paid, such wages shall be paid within one week of the termination of the contract.

(2) In the case of casual workers employed for short periods wages shall be paid immediately on completion of the work.

**Remuneration other than wages.**

10. Nothing in this Act shall render illegal an agreement or contract with a worker for giving to him or her food, a dwelling-place or other allowances or privileges in addition to any wages as a remuneration for his or her services, but so that no employer shall give to a worker any intoxicating liquor or noxious drugs by way of such remuneration.

**Workers right to recover.**

11. Notwithstanding the provisions of any law, every worker shall be entitled to recover in a court of summary jurisdiction so much of his or her wages exclusive of sums lawfully deducted in accordance with the provisions of this Act, as shall not have been actually paid to him or her in Eastern Caribbean currency or other legal tender.

**Wages in cases of bankruptcy.**

12. In the event of the bankruptcy or judicial liquidation of an undertaking, the workers employed therein shall be treated as privileged creditors either as regards all the wages due to them for service in respect of any period prior to the bankruptcy or judicial liquidation or up to a prescribed amount, as may be ordered by a Court.

**Rates of wages to be notified by employer to worker.**

13. Employers shall take effective measures to ensure that all workers are informed in any appropriate and easily understandable manner—

- (a) before they enter employment, and at least two weeks before any changes take place, of the conditions of employment and the rates of remuneration under which they are to be employed;
- (b) at the time of each payment of wages, of the particulars of their wages for the pay period concerned in so far as such particulars have been in any way altered.

**Register of wage payments.**

14. Every employer shall keep a register of wage payments and workers' accounts, and every worker shall be entitled on demand to a copy of his or her account in any pay period.

**Limitation of advances of wages.**

15. (1) An employer may make a cash advance on account of unearned wages to a worker during his or her employment but so that such advance shall not exceed—

- (a) one week's wages in the case of workers whose wages are fixed by the week;

- (b) one fortnight's wages in the case of workers whose wages are fixed on a fortnightly basis; and
- (c) one month's wages in the case of workers whose wages are fixed on a monthly basis:

Provided always that an employer may make such an advance to a worker not earlier than one week before the agreed date of employment, and the employer shall, at the time of making such advance, inform the worker of the amount of the advance permitted in his or her case.

#### **Interest on advances prohibited.**

16. No employer shall make any deductions by way of discount, interest or any similar charge on account of any advance of wages made to any worker in anticipation of the regular period of payment of such wages.

#### **Illegal advances to be irrecoverable.**

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

#### **Deductions or payments in respect of fines restricted.**

18. Except where otherwise expressly permitted by the provisions of this Act or of any other Act no employer shall make any deduction or make any agreement or contract with a worker for any deduction from the wages to be paid by the employer to the worker, or for any payment to the employer by the worker, for or in respect of any fine, or for bad or negligent work or for injury to the materials or other property of the employer save with the prior permission of the Labour Commissioner when such injury is occasioned by the wilful misconduct or neglect of the worker.

#### **Certain deductions authorized.**

19. Any employer may deduct or stop from the wages payable to a worker under a contract of service—

- (a) the actual or estimated cost to the employer of any materials, tools and implements supplied by the employer to the worker at the latter's request to be used by him or her in his or her occupation; or
- (b) any cash advance previously lawfully made to the worker on account of unearned wages; or
- (c) the amount of any contribution to a provident or pension fund or any scheme agreed to in writing by the worker and approved by the Labour Commissioner:

Provided that the total amount which may be stopped or deducted from the wages of a worker in any pay period under the provisions of this section shall not exceed one-third of the wages of the worker in that pay period.

#### **Deductions for obtaining or retaining employment prohibited.**

20. Deductions in the form of direct or indirect payments for the purpose of obtaining or retaining employment shall not be made from the wages of a worker by an employer, or by any intermediary or labour contractor or recruiter.

**Saving as to judgment debts.**

21. 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 any judgment of a court.

**Limitations on attachment or seizure of wages.**

22. (1) Notwithstanding the provisions of any other law, the wages of a worker shall be liable to attachment or seizure in execution only within the following limits—

- (a) up to one-half in respect of maintenance payments;
- (b) up to one-third in respect of all other debts of any kind and however contracted.

(2) The proportions prescribed in subsection (1) shall not be applicable cumulatively on the ground that there are several debts or several creditors, the maximum proportion in all cases remaining fifty per centum of the wages.

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

**Co-operative work.**

23. Nothing in this Act shall be held to apply to members of a co-operative working on a co-operative basis or individuals engaging in an ad hoc co-operative effort.

**Penalty.**

24. (1) Any employer or his or her agent who—

- (a) enters into any 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; or
- (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 7 of this Act,

commits an offence and shall be liable, on summary conviction, to a fine not exceeding five hundred dollars.

(2) Any employer or other person who acts in contravention of or fails to comply with any of the provisions of this Act commits an offence, and where no special penalty is provided shall be liable, on summary conviction, to a fine not exceeding five hundred dollars.

**Actual offender to be proceeded against.**

25. (1) Where an employer is charged with an offence under the provisions of 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 enforce the provisions of this Act and that the other person committed the offence in question without his or her knowledge, consent or

connivance, the said other person shall be summarily convicted of such offence and the employer shall be exempt from any penalty.

(2) When it is made to appear to the satisfaction of the Labour Commissioner at the time of discovering the offence that the employer has used due diligence to enforce the provisions of this Act and also by what person such offence has been committed, and 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) On the hearing of a complaint charging an offence under paragraph (b) of subsection (1) of section 24 of this Act, the Court may, on the offence being proven, 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 this Act.

(4) Payment of any sum ordered by a Court to be paid under subsection (3) of this section may be enforced in the manner prescribed by the Magistrate's Code of Procedure Act, Cap. 3.17.

(5) The power of the Court to make an order under sub-section (3) of this section 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 Court has ordered to be paid under the provisions of subsection (3) of this section.

#### **Power to make regulations.**

**26.** (1) The Minister may make Regulations generally for the proper carrying out of the provisions of this Act.

(2) Regulations made under this Act may prescribe for any contravention thereof or failure to comply therewith a fine not exceeding five hundred dollars on summary conviction.

#### **Prosecution to be instituted within one year of offence.**

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

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