



ST CHRISTOPHER AND NEVIS

CHAPTER 18.19

LABOUR (MINIMUM WAGE) ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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Labour (Minimum Wage) Act

Act 21 of 1937 in force 13th December, 1937

Amended by Act 6 of 1976

Act 7 of 1976

Act 9 of 1986

Labour (Minimum Wage) (Advisory Committees) Rules – Section 2 – (L.I.) 1 of 1944

**Labour (Minimum Wage) (Shop Employees) Order – Section 3 – SRO 24 of 1994
(SRO 3 of 1989 R and R)**

Labour (Minimum Wage) (Manufacturing Sector) Order – Section 3 – SRO 25 of 1994

Amended by SRO 58 of 1997

Labour (Minimum Wage) Domestic Workers) Order – Section 3 – SRO 23 of 1994

Revoked and Replaced by SRO 20 of 2004

Labour (Minimum Wage) (Hotel Workers and Casino Workers) Order – Section 3 – SRO 26 of 1994

Revoked and Replaced by SRO 11 of 2004

Labour (Minimum Wage) (Security Guards) Order – Section 3 – SRO 27 of 1994

Amended by SRO 32 of 1994

CHAPTER 18.19

LABOUR (MINIMUM WAGE) ACT

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CHAPTER 18.19

LABOUR (MINIMUM WAGE) ACT

AN ACT to regulate the wages paid in any occupation in the State; and to provide for related or incidental matters.

1. Short title.

This Act may be cited as the Labour (Minimum Wage) Act.

2. Regulation of wages.

(1) Whenever the Minister deems it expedient that steps should be taken to regulate the wages paid in any occupation in the State he or she may, with the advice of the Cabinet, 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.

[Amended by Act 6/1976]

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

(3) The Minister may make rules prescribing the powers, duties, and procedure of Advisory Committees appointed under this section.

[Amended by Act 6/1976]

3. Order prescribing minimum wage.

(1) On considering the recommendations of any Advisory Committee, appointed under the provisions of section 2 the Minister may, with the advice of the Cabinet, make an Order prescribing the minimum rates of wages payable.

[Amended by Act 6/1976]

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

(3) The Minister may, with the like advice and in like manner, revoke or vary the provisions of any previous Order.

[Amended by Act 6/1976]

(4) Any such rate as aforesaid or the revocation or variation of any such rate shall become effective as from the date specified in that behalf in the Order which date shall be subsequent to the date of the Order, and every such Order shall be published in the *Gazette* or in a newspaper, if any, in the State.

(5) The expression "overtime rate" means a rate (whether a time-rate or a piece-rate) to apply in substitution for the minimum rate which would otherwise be applicable in respect of hours worked in any week or on any day in excess of the number of hours in respect of which a time-rate or a piece-rate has been prescribed.

(6) Every Order made under the provisions of this section shall be laid as soon as may be after it has been made before the National Assembly and if the National Assembly 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 one.

4. Penalty for not paying wages in accordance with minimum rate which is effective.

(1) Where a minimum rate of wage fixed by the Minister, as prescribed by this Act, has become effective an employer shall, in cases to which the minimum rate is applicable, pay wages to the persons employed at not less than the minimum rate, and if he or she fails to do so, shall be liable, on summary conviction, in respect of each offence, to a fine not exceeding seven hundred and fifty dollars and to a fine not exceeding one hundred fifty dollars for each day on which the offence is continued after conviction therefor.

[Amended by Acts 6/1976, 7/1976 and 9/1986]

(2) On the conviction of an employer under subsection (1), the Court may, by the conviction, adjudge the employer convicted to pay, in addition to any fine, such sum as appears to the Court to be due to the person employed on account of wages, the wages being calculated on the basis of a minimum rate, but the power to order the payment of wages under this provision shall not be in derogation of any right of the person employed to recover wages by any other proceedings.

(3) Where an offence for which an employer is, by virtue of this section, 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 or she 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, provided that no such agent or other person shall be liable to pay any deficit in wages under the provisions of subsection (2).

(4) Where an employer has been convicted for failing to pay wages at not less than the minimum rate to any person employed by him or her, then, if notice of intention so to do has been served with the summons, warrant or complaint, evidence may be given of any failure on the part of the employer to pay wages at not less than the minimum rate to that employee at any time during the two years immediately preceding the date on which the information was laid or the complaint was served and on proof of the failure the Court may 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 Act, ought properly to have been paid to the employee by way of wages during those years and the amount actually so paid.

(5) Where an employer who is charged with an offence against this section proves, to the satisfaction of the Court, that he or she has used due diligence to enforce the execution of this Act, and that the offence was in fact committed by his or her agent or some other person without his or her knowledge, consent or connivance, he or she 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) to adjudge him or her to pay any sum which appears to the Court to be due to the person employed on account of wages.

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(6) It shall be the duty of every employer in an occupation to which a minimum rate is applicable to keep such records of wages as the Minister may direct to be kept to show that the provisions of this Act are being complied with as respects persons in his or her employment and if he or she fails to do so he or she shall be liable, on summary conviction, in respect of each offence to a fine not exceeding one hundred and fifty dollars and also to a fine not exceeding fifty dollars for every day during which the default continues after conviction.

[Amended by Acts 6/1976, 7/1976 and 9/1986]

(7) On any prosecution of a person for failing to pay wages at not less than the minimum rate, it shall lie on that person to prove that he or she has not paid wages at less than the minimum rate.

5. Appointment of officers and power of entry and inspection.

(1) The Governor-General may appoint such officers as he or she may think necessary for the purpose of investigating any complaints and otherwise securing the proper observance of the provisions of this Act.

[Amended by Act 6/1976]

(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 minimum 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 hinders or molests any officer in the exercise of the powers given by this section or 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 two hundred 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 or she shall be liable, on summary conviction, to a fine not exceeding seven hundred and fifty dollars, or to imprisonment for a term not exceeding three months.

[Amended by Acts 7/1976 and 9/1986]

6. Agreement in contravention of this Act void.

Any agreement for the payment of wages in contravention of the provisions of this Act shall be void.

FIRST SCHEDULE

(Section 2(3))

LABOUR (MINIMUM WAGE) (ADVISORY COMMITTEES) RULES**1. Short Title.**

These Rules may be cited as the Labour (Minimum Wage) (Advisory Committees) Rules.

2. Interpretation.

In these Rules,

“Act” means the Labour (Minimum Wage) Act;

“Committee” means an Advisory Committee appointed under section 2 of the Act.

3. Powers and Duties of Committee.

(1) Any Committee appointed under the Act shall have full power to investigate the conditions of employment in respect of the particular occupation which has necessitated its appointment and to make recommendations to the Minister as to the minimum rates of wages which should be payable in such occupation.

(2) A Committee may, at any time, if it deems it expedient so to do, call in the aid of one or more assessors, specially qualified in the opinion of the Committee, to give assistance to the Committee in the matter under investigation or in any matter relevant to such investigation.

(3) A Committee may continue to act notwithstanding any vacancy which may for any reason occur in its membership.

(4) Each report of a Committee shall be in writing and shall be addressed to the Minister.

(5) Such report shall be signed by the members of the Committee who concur therein.

(6) Such report shall be forwarded to the Minister as soon as conveniently possible after the conclusion of their investigation or, if the Minister has requested an interim report, as soon as conveniently possible after the receipt of such request.

4. Attendance of Witnesses, etc.

(1) Any person may, by notice in writing signed by the Chairperson, be required

(a) to attend any meeting of a Committee and give evidence on oath or otherwise before the said Committee;

(b) to attend any meeting of a Committee and produce any document which, in the opinion of the Committee, is relevant to the subject matter of the investigation;

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without being bound by the rules of evidence in civil or criminal proceedings; or

- (c) to furnish in such manner as may be specified such particulars as may be required by the Committee:

Provided that if any witness objects to answer any question or to produce any document on the ground that it will tend to incriminate him or her or on any other lawful ground he or she shall not be required to answer such questions or to produce such documents nor shall he or she be liable for any penalties for refusing to do so.

(2) Any person who wilfully fails to comply with any notice in writing addressed to him or her under this rule, or without lawful excuse fails to answer any question which is relevant to the subject matter of the investigation put to him or her by a Committee or any member thereof shall, on summary conviction, be liable to a penalty not exceeding two hundred dollars.

5. Appointment of Chairperson.

The Minister shall appoint the Chairperson of every Committee appointed under the Act.

6. Voting.

All questions arising at any meeting of a Committee shall be determined by a majority of votes of all members present including the Chairperson and in the case of an equality of votes the question shall be determined by the casting vote of the Chairperson:

Provided that the Chairperson, if he or she thinks it desirable, may adjourn the voting on any particular question to another meeting of the Committee.

7. Procedure.

Subject to the provisions of these rules, every Committee may regulate its procedure in such manner as it may deem expedient to enable it to submit its report to the Minister expeditiously.

SECOND SCHEDULE

(Section 3(1))

LABOUR (MINIMUM WAGE) (SHOP EMPLOYEES) ORDER

1. Citation.

This Order may be cited as the Labour (Minimum Wage) (Shop Employees) Order.

2. Minimum Rate of Wages Payable to Shop Employees.

[This paragraph was revoked and replaced by SRO 23 of 2004]

3. Overtime Rate.

The overtime rate to be paid to a shop employee to whom paragraph 2 applies shall be:

- (a) for a Sunday or public holiday, double the rate in respect of the hours worked;
- (b) for any other day, at the rate of time and a half in respect of the excess hours worked.

THIRD SCHEDULE

(Section 3)

LABOUR (MINIMUM WAGE) (MANUFACTURING SECTOR) ORDER**1. Citation.**

This Order may be cited as the Labour (Minimum Wage) (Manufacturing Sector) Order.

2. Minimum rate of wages payable to workers in the manufacturing sector.

The minimum wage to be paid to a worker in the manufacturing sector (entry level) shall be four dollars per hour.

3. Overtime rate.

The overtime rate to be paid to a worker in the manufacturing sector shall be:

- (a) for a Sunday or public holiday, double the rate in respect of the hours worked;
- (b) for any other day, at the rate of time and a half in respect of the excess hours worked.

[Amended by SROs 31/1994 and 58/1997]

4. Calculation of overtime.

(1) Overtime for a worker employed in a manufacturing sector shall be calculated on a daily basis.

(2) A worker in the manufacturing sector shall be paid overtime allowance for anytime he or she works in excess of eight hours a day.

(3) Where a worker is paid on a weekly, fortnightly, or monthly basis, respectively and such worker is absent from duty for reasonable cause then in assessing his or her income he or she shall be deemed to have worked at the normal rate for the hours he or she was absent from duty with reasonable cause.

[Inserted by SRO 58/1997]

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FOURTH SCHEDULE

(Section 3)

LABOUR (MINIMUM WAGE) (DOMESTIC WORKERS) ORDER

[Order Revoked and Replaced by SRO No. 20 of 2004]

FIFTH SCHEDULE

(Section 3)

LABOUR (MINIMUM WAGE) (HOTEL WORKERS AND CASINO WORKERS) ORDER

[Order Revoked and Replaced by SRO No. 11 of 2004]

SIXTH SCHEDULE

(Section 3)

LABOUR (MINIMUM WAGE) (SECURITY GUARDS) ORDER

1. **Citation.**

This Order may be cited as the Labour (Minimum Wage) (Security Guards) Order.

2. **Minimum rate of wages payable to security guards.**

The minimum wage to be paid to a security guard (entry level) shall be six dollars per hour.

3. **Overtime rate.**

The overtime rate to be paid to a security guard shall be,

- (a) for a Sunday or public holiday, double the rate in respect of the hours worked;
- (b) for any other day, at the rate of time and a half in respect of the excess hours worked:

Provided that for the purposes of this paragraph, any hours in excess of forty hours in a week shall be deemed to be overtime.

[Amended by SRO No. 32 of 1994]