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LABOUR STANDARDS ACT

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AN ACT to provide for the fixing of wages of workers, the hours of work, their leave and generally for matters pertaining to the welfare of workers.

Commencement 31st March 1977

Short title.

- 1. This Act may be cited as the Labour Standards Act.

Interpretation.

- 2. In this Act -

"business" includes trade, undertaking, operation and establishment

"employee" means, subject to section 9, any person employed by an employer;

"employer" means a person who employs one or more employees;

"handicapped person" means a person who has a disability that constitutes a handicap in the performance of any work to be done by him for an employer;

"holiday" means a public holiday or a day which by agreement is a holiday with pay;

"inspector" means any person appointed as an inspector pursuant to this Act;

"juvenile" means any person over sixteen years of age and under eighteen years of age;

"Labour Commissioner" means the public officer appointed to the post of Labour Commissioner by the Public Service Commission;

"Minister" means the Minister responsible for Industrial Relations;

"Tribunal" has the same meaning as that given in section 2(1) of the Industrial Relations Act; and

"year of employment" means continuous employment of an employee by one employer for a period of twelve consecutive months beginning with –

- (a) the date the employment began .or any subsequent anniversary date thereafter; or
- (b) such other date as the Labour Commissioner may approve having regard to all the circumstances, including previous practice respecting vacation leave in the business.

APPLICATION

Application.

3. This Act applies to the State.

Act applies notwithstanding other arrangements.

4. (1) Subject to subsection (2), this Act applies notwithstanding any other law or any custom, agreement, contract or arrangement, whether made before or after the date on which this Act comes into force.

4. (2) The rights or benefits conferred on an employee by this Act are the minimum rights and benefits to which he is entitled, and nothing in this Act shall be construed as affecting any rights or benefits he may have or obtain under any law, custom, contract or arrangement that are more favourable to him than his rights or benefits under this Act.

MINIMUM WAGES

Proclamation to fix a minimum wage.

5. (1) The Minister may by Order fix a minimum rate of wage in respect of an occupation or category to be paid by employers to employees in that occupation or category.

5. (2) An Order made pursuant to subsection (1), fixing a minimum rate of wage in respect of an occupation or category shall express that minimum rate in terms of –

- (a) both a weekly and hourly rate;
- (b) both a daily and hourly rate; or
- (c) an hourly rate.

Advisory board.

6. (1) Where the Minister considers it advisable, he may appoint an advisory board to consider the wages paid to employees in any occupation or category and to advise him of the minimum rate of wages that would be fair for employees in that occupation or category.

6. (2) An advisory board appointed by the Minister pursuant to subsection (1) shall consist of such number of members as the Minister considers appropriate.

6. (3) In appointing the members of an advisory board, the Minister shall endeavour to ensure that the advisory board is equally representative of employees and employers who are directly concerned with the occupation or category in respect of which the advisory board is being constituted.

Handicapped person.

7. For the purpose of enabling a handicapped person to be gainfully employed, the Labour Commissioner may authorise the employment of the handicapped person at a wage lower than the minimum rate of wage fixed pursuant to section 5 if he is satisfied that it is in the best interest of the handicapped person to be so employed.

Obligation to pay not less than minimum wage.

8. (1) Where a minimum rate of wage is fixed by Order pursuant to section 5 in respect of an occupation or category, every employer of an employee who is employed in that occupation or category shall pay wages, the employee at not less than that minimum rate.

8. (2) Where an employer is authorised pursuant to section 7 to employ a handicapped person at a wage lower than the minimum rate of wage, the employer shall pay wages to the handicapped person at not less than that lower wage.

HOURS OF WORK

Interpretation.

9. In sections 10 to 12 -

"employee" does not include any person employed by an employer-

- (a) who has and actually exercises authority
 - (i) to hire employees;
 - (ii) to terminate the employment of employees; or

- (iii) to order that employees be suspended without pay;
- (b) who makes effective recommendations that will, except in unusual circumstances, be acted upon by the employer respecting any matter mentioned in paragraph (a);
- (c) in a capacity that requires that person to have full knowledge of the financial position on the business of the employer; or
- (d) who is responsible for or has an effective voice in the formulation of policy in the business of the employer; and

"standard hours of work" means the hours of work described in section 10.

Hours of work.

10. (1) Except as otherwise provided by or under this Act, the working hours of an employee shall not exceed eight hours in a day and forty hours in a week, and, except as provided by or under this Act, no employer shall cause an employee to work longer hours than eight hours in any day or forty hours in any week, unless the employee consents to do so.

10. (2) In a week in which any holiday occurs that entitles an employee to a holiday with pay in that week, the working hours of that employee in that week shall be reduced by the number of hours that the employee would normally have worked on the day on which the holiday falls.

10. (3) The Minister may, in respect of any occupation or category of employee, by Order reduce the daily or weekly working hours or both of them, of employees in that occupation or category.

10. (4) A worker shall not be entitled to a holiday with pay unless he reports for work on the last working day before the commencement of that holiday and on the first working day after the end of that holiday.

Obligation to pay overtime.

11. When an employee is required or permitted by his employer to work in excess of the standard hours of work applicable to him, the employer shall pay the employee for the overtime at a rate of wages not less than one and one-half times his regular rate of wages.

One day's rest in a week.

12. Every employer shall, with respect to each of his employees, schedule the hours of work of the employee in each week in such a way that the employee has at least one full day of rest in the week, and, wherever practicable, Sunday shall be the normal day of rest in a week.

VACATION LEAVE

Annual vacation leave with pay.

13. Except as provided by or under this Act, every employee is entitled to and shall be granted vacation leave with pay from his employer after and in respect of each year of employment –

- (a) of at least two weeks where the employee has been continuously employed by the employer for less than five years; and
- (b) of at least three weeks where the employee has been continuously employed by the employer for five years or more.

Granting vacation leave with pay.

14. The employer of an employee who has become entitled to vacation leave with pay shall -

- (a) grant to the employee the vacation leave to which he is entitled, which shall begin not later than ten months following the completion of the year of employment in respect of which the employee became entitled to the vacation leave; and
- (b) pay to the employee his regular rate of wages during the period of the vacation leave on the days on which he would normally receive wages.

Holiday during vacation.

15. Where a holiday to which a employee is entitled occurs during any vacation leave granted to the employee, the vacation leave shall be extended by one day without any loss of pay.

Part-time employees.

16. (1) Where an employee is employed by an employer for a total of less than 1,760 hours in a year of employment, the employer shall-

- (a) pay to the employee at the end of the year of employment four percent of the wages paid to the employee during the year of employment; or
- (b) grant vacation leave with pay to the employee that bears the same relation to two weeks as the number of hours worked by the employee during the year of employment bears to 1,760.

16. (2) Where the employment of an employee by an employer is terminated for any reason, the employer shall forthwith pay to the employee-

(a) the amount of pay due to him in respect of any unused vacation leave to which the employee is entitled in respect of any prior completed year of employment; and

(b) an amount equal to at least four percent or, where the employee would have been entitled to vacation leave of three weeks in respect of the current year of employment, at least six percent, of the wages paid to him during any part of the completed portion of the current year of employment in respect of which he has not been granted vacation leave.

Where entitled to maternity leave.

17. Every employee who has completed twelve months of continuous employment by an employer and who is pregnant is entitled to and shall be granted maternity leave in accordance with this Act.

Length of maternity leave. [36 of 1983]

18. Subject to sections 19, 20 and 21, the maternity leave to which an employee is entitled pursuant to this Act shall consist of –

(a) a period before the estimated date of confinement to be specified by the employee, but not less than three weeks; and

(b) a period not exceeding nine weeks commencing on the actual date of confinement.

Application for maternity leave. [36 of 1983]

19. An employee intending to take maternity leave shall-

(a) apply in writing for such leave to her employer specifying -

(i) the estimated date of her confinement; and

(ii) the date on which her maternity leave will commence, which may not be less than three weeks before the estimated date of her confinement; and

(b) furnish to her employer at the same time a certificate of a duly qualified medical practitioner certifying that she is pregnant and specifying the estimated date of her confinement.

Vacation leave to be used first.

20. Unless her employer otherwise agrees, an employee who has applied for maternity leave shall, commencing on the date specified by her as the date on which her maternity leave will commence, use up all of the unused

vacation leave with pay to which she is then entitled before commencing maternity leave.

Minimum period of leave after confinement. [36 of 1983]

21. Where the leave to be taken has been extended by any period elapsing between the presumed date of confinement and the actual date of confinement the period of leave to be taken after confinement shall in no case be reduced on that account to a period of less than six weeks.

Pay during maternity leave.

22. Any employee who takes maternity leave pursuant to this Act shall be paid by her employer a weekly wage that is not less than one half of her normal weekly wage for a period of four weeks following the date on which her maternity leave commences, whichever is the lesser period.

Employment deemed continuous.

23. (1) An employee who resumes her employment on the expiration of her maternity leave shall be reinstated by her employer in the position occupied by her at the time such leave commenced or in a comparable position with not less than the same wages and benefits.

23. (2) For the purpose of calculating any benefits of an employee to whom maternity leave is granted, employment after the termination of such leave shall be deemed continuous with employment before the commencement of such leave.

EQUAL WAGES

Equal Wages.

24. No employer shall establish or maintain differences in wages between male and female employees employed in the same business who are performing, under the same working conditions, the same or similar work or jobs requiring similar skill, effort and responsibility.

Different wages based on factors other than sex.

25. Payment to male and female employees of different wages does not constitute a violation of section 24 if the difference is based on any other factor or factors other than sex that justify such a difference.

Reduction of wages – prohibition.

26. No employer shall reduce the wages of an employee in order to comply with section 24.

TRANSFER OF BUSINESS

Transfer of Business.

27. Where any business in which an employee is employed is by sale, lease, merger or otherwise, transferred from one employer to another employer, the employment of the employee by the two employers before and after the transfer of the business shall be deemed to be continuous with the employer to whom the business was transferred for the purpose of the application of –

- (a) sections 13 to 16 relating to vacation leave; and
- (b) sections 17 to 23 relating to maternity leave.

ADMINISTRATION AND ENFORCEMENT

Inspectors.

28. (1) The Minister may designate any person as an inspector under this Act.

28. (2) An inspector may, for the purpose of enforcing this Act –

- (a) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours of work and conditions of employment affecting any employee;
- (b) take extracts from or make copies of any entry in the books, payrolls and other records mentioned in paragraph (a);
- (c) require an employer to make or furnish full and correct statements, either orally or in writing, in such form as may be required, respecting the wages paid to all or any of his employees, and the hours of work and conditions of their employment; and
- (d) require an employee to make full disclosure, production and delivery to him of all records, documents and statements or of other information, either verbal or in writing, that the employee has in his possession that in any way relate to the wages, hours of work or conditions of his employment.

28. (3) An inspector may at any hour of the day or night enter upon any place used in connection with any business for the purpose of making an inspection authorised under subsection (2), and may, for such purpose, question any employee apart from his employer.

28. (4) An inspector shall be furnished by the Minister with a certificate of his authority and on entering any place used in connection with a business shall, if so required, produce the certificate to the person in charge thereof.

28. (5) The person in charge of any place used in connection with any business and every person employed at that place shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties under this Act.

Records to be kept.

29. (1) Every employer shall make and keep for a period of at least twenty-four months after the work is performed, a record showing, with respect to each employee employed by him –

- (a) his name;
- (b) his address;
- (c) his age, where the employee is under the age of eighteen years;
- (d) his wage rate;
- (e) the hours worked by him; and
- (f) the actual earnings of and payments made to him.

29. (2) Every employer shall furnish such information relating to the wages and hours of work of his employees and the vacation leave and maternity leave granted to them as may be required from time to time by the Minister or an inspector.

Complaint to Tribunal. [36 of 1983]

30. (1) Where it is alleged that an employer has failed to comply with the provision of this Act other than the provisions of sections 28 and 29 –

- (a) any employee affected by that alleged failure;
- (b) any trade union on behalf of such an employee; or
- (c) the Labour Commissioner,

may make a complaint in writing to the Tribunal.

30. (2) Subject to section 6 of the Industrial Relations Act, or as that section may be modified or re-enacted, before any complaint is made to the Tribunal by any party entitled under subsection (1) notice of the proposal to do so shall be given to the Minister, and where such a notice has been given, action will be taken by the

Minister as specified in section 6 of that Act, and he will notify the party or parties giving the notice accordingly.

30. (3) A complaint made to the Tribunal pursuant to subsection (1) may be made at any time within two years after the date on which the subject matter of the complaint arose, and not thereafter.

30. (4) A complaint made to the Tribunal pursuant to subsection (1) shall contain –

(a) the name of the employer and, where applicable, the employee;

(b) a brief statement of the facts and circumstances relevant to the complaint; and

(c) a statement of the relief claimed.

30. (5) The Labour Commissioner may, at the request of any employee, assist the employee in making a complaint to the Tribunal or in conducting any proceeding before the Tribunal relating to a complaint.

Jurisdiction to decide all questions.

31. (1) The Tribunal has exclusive jurisdiction to determine all questions that arise in relation to any complaint made to it pursuant to this Act.

31. (2) The Tribunal has, in relation to any complaint made to it pursuant to this Act, power to order an employer –

(a) to comply with any provisions of this Act; and

(b) to pay to any employee any amount found to be due to the employee pursuant to this Act.

31. (3) The Tribunal has, in relation to any complaint made to it pursuant to this Act, all of the powers with respect to its proceedings as are conferred on it by the Industrial Relations Act.

31. (4) Any order of the Tribunal made pursuant to this Act –

(a) is final and binding on the parties to the complaint;

(b) may be enforced in the same manner as a decision of the Tribunal made pursuant to the Industrial Relations Act; and

(c) is subject to review or appeal only to the same extent as a decision of the Tribunal made pursuant to the Industrial Relations Act.

Offence.

32. Every person who contravenes any of the provisions of section 28 or 29 is liable on summary conviction to a fine of seventy-five dollars for each day during which contravention continues.

SUBSIDIARY LEGISLATION

LABOUR STANDARDS (MINIMUM WAGE) ORDER

Section 5

Commencement 30th November 1989

Short title.

1. This Order may be cited as the – Labour Standards (minimum Wage) Order.

Minimum rate of wage.

2. The minimum rate of wage in respect of an occupation or category in accordance with section 5 of the Act shall be the rate as specified in the Schedule.

SCHEDULE

OCCUPATION OR CATEGORY

Agricultural and other unskilled workers (males and females)	\$ 2.20 per hr.
Daily paid (factory and tourism) (males and females) workers	\$ 2.00 per hr.
Juveniles	\$ 1.50 per hr.
Cashiers and receptionists	\$ 3.00 per hr.

Sales person/cashiers	\$ 2.00 per hr.
Shop assistants	\$ 2.00 per hr.
Home assistants (with meals)	\$ 1.00 per hr.
Home assistants (without meals)	\$ 1.25 per hr.
Home assistants (living in)	\$54.00 per week of six days.