

LAWS OF DOMINICA

PROTECTION OF WAGES ACT

CHAPTER 89:07

Act
17 of 1961
Amended by
28 of 1961
31 of 1978

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

CHAPTER 89:07**PROTECTION OF WAGES ACT****ARRANGEMENT OF SECTIONS****SECTION**

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CHAPTER 89:07

PROTECTION OF WAGES ACT

1961 Ed.
Cap. 115.
17 of 1961.

AN ACT to make provision for the protection of wages of workers.

Commencement.

[23rd November 1961]

Short title.

1. This Act may be cited as the –

PROTECTION OF WAGES ACT.

Interpretation.

2. In this Act –

“manual labour” includes work ordinarily performed by mechanics, artisans, handicraftsmen, seamen, boatmen, transport workers, domestic servants and all labourers and any other similar work associated therewith including workers in the catering trade but does not include clerical work;

“worker” means a person who performs manual labour.

Wages to be paid
in coin of the
State or other
legal currency.

3. In all contracts of employment the wages of a worker shall be made payable in current coin of the State or in Eastern Caribbean currency notes or other legal currency for the time being in use in the State and if in any such contract the whole or any part of the wages is made payable in any other manner (except as hereinafter mentioned) the contract shall be illegal, null and void.

Agreements to
place and manner
of spending
wages illegal.

4. No employer shall impose in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom, any wages paid to the worker are to be expended, and every contract between an employer and a worker containing such terms shall be illegal, null and void.

Wages to be paid
entirely in coin
of the State or
other legal
currency.

5. Except where otherwise expressly 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 shall be actually paid to him in coin of the State or other legal currency, and every payment of, or on account of, any such wages made in any other form shall be illegal, null and void; but nothing herein contained shall be construed to prevent or

to render invalid any actual payment to any worker of the whole or any part of his wages either in drafts or orders for the payment of money to the bearer on demand drawn upon any person or persons carrying on the business of a banker in pursuance of the laws of the State within two miles of the place where the drafts or orders are so paid, if the worker freely consents to receive the drafts or orders, but all payments so made with such consent in any such drafts or orders shall for the purposes of this Act be as valid and effectual as if the payments had been made in current coin of the State or in other legal currency.

6. Every worker shall be entitled to recover in a Court so much of his wages exclusive of sums lawfully deducted in accordance with the provisions of this Act as shall not have been actually paid to him in coin of the State or other legal currency.

Worker's right to recover.

7. No employer shall make any deduction 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.

Interest on advances prohibited.

8. 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 when the injury is occasioned by the wilful misconduct or neglect of the worker.

Deductions or payments in respect of fines restricted.

9. (1) Any employer may deduct or stop from the wages payable to a worker under any contract of employment in respect of the following:

Deductions authorised in certain cases. [31 of 1978].

- (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 employed by him in his occupation;
- (b) any money advanced by way of loan by the employer to the worker (whether paid to the worker himself or to some other person at his request), in anticipation of the regular period of payment of his wages;

(c) the check-off of union dues whenever requested by the worker;

but 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 employee in that pay period.

(2) Where a union in furtherance of a strike vote by its members, proceeds on an illegal strike, the employer may not thereafter be required to continue the checking-off of dues.

(3) For the purposes of this Act a strike means a cessation of work or a refusal to work, to continue to work, or to take up work by workers acting in concert or in accordance with a common understanding or other concerted activity on the part of workers in contemplation of or in furtherance of a trade dispute except that the expression does not include action commonly known as a "sit down" strike, "go slow" or "sick out".

Illegal advances to be irrecoverable.

10. All advances made otherwise than in accordance with the provisions of this Act or of any Regulations made hereunder shall be unlawful and shall be irrecoverable in a Court of law whether by way of counter-claim, set-off or otherwise.

Saving as to judgment debts.

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

Agreements of co-operation.

12. Nothing in this Act shall be held to apply to any body of persons working on an agreement of co-operation.

Remuneration other than wages.

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

Wages not to be paid on certain premises.

14. No employer shall pay wages to any worker at or within any retail shop, or place for the sale of any spirits, 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 the retail shop or place to any worker *bona fide* employed by him.

15. Any employer or his agent who –

Penalties.

- (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 14 of this Act,

is liable on summary conviction to a fine of five hundred dollars or for a second or subsequent offence to a fine of one thousand dollars.

16. (1) Where an employer is charged with an offence under this Act 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 has used due diligence to enforce the provisions of this Act and that the other person has committed the offence in question without his knowledge, consent or connivance, the other person shall be summarily convicted of the offence and the employer shall be exempt from any penalty.

Exemption of employer on conviction of actual offender.

(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 the 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 believes to be the actual offender in the first instance without first proceeding against the employer.

(3) If with the lodging of a complaint charging an offence under section 15(b), a notice in the prescribed form is served by the complainant in the prescribed manner on the employer, the Magistrate may on the offence being proven order the employer or his 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.

Ch. 4:20. (4) Payment of any sum ordered by a Magistrate to be paid under subsection (3) may be enforced in the manner prescribed in the Magistrate's Code of Procedure Act.

(5) The power of the Magistrate to make an order under subsection (3) shall not be in derogation of any right of the worker concerned to recover the sum by any other proceeding; but no worker shall be entitled in any other proceedings to recover any amount which a Magistrate has ordered to be paid under the provisions of subsection (3).

Register of wage payments. 17. (1) 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 account in any pay-period. An employer shall not be required to keep a register of domestic servants for the purposes of this Act.

(2) Every employer who contravenes the provisions of subsection (1) is liable on summary conviction to a fine of five hundred dollars.

Regulations. 18. (1) The Labour Commissioner with the approval of the Minister, may make Regulations for the purpose of carrying out the provisions of this Act.

(2) All Regulations made under this Act shall be laid before the House of Assembly.

Deduction for provident or pension funds. 19. Notwithstanding anything contained in this Act an employer may with the consent of the worker make deductions from the wages of the worker and pay to the appropriate person any contributions to provident or pension funds or schemes agreed to by the worker and approved of by the Labour Commissioner.

Prosecution to be instituted within one year of offence. 20. 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.
