

CHAPTER 359

SUGAR WORKERS (MINIMUM WAGE AND GUARANTEED EMPLOYMENT)

1968-6

This Act came into operation on 11th March, 1968.

Amended by:

This Act has not been amended

CHAPTER 359

SUGAR WORKERS (MINIMUM WAGE AND GUARANTEED EMPLOYMENT) 1968-6

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*MINIMUM RATES OF WAGES PAYABLE TO SUGAR WORKERS ENGAGED IN OUT-OF-CROP
WORK FROM 30TH JUNE IN EACH YEAR TO 31ST JANUARY IN THE YEAR NEXT FOLLOWING*

SECOND SCHEDULE

HOURS OF EMPLOYMENT TO BE PROVIDED OR GUARANTEED IN EACH EMPLOYMENT PERIOD

THE LAWS OF BARBADOS

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BARBADOS

SUGAR WORKERS (MINIMUM WAGE AND GUARANTEED
EMPLOYMENT)
1968-6

An Act to provide for the prescribing of minimum wages and guaranteed employment for workers employed in the sugar industry and for matters incidental thereto or connected therewith.

[Commencement: 11th March, 1968]

Short title

1. This Act may be cited as the Sugar Workers (Minimum Wage and Guaranteed Employment) Act.

Interpretation

2.(1) For the purposes of this Act, the expression—

“conditions of employment” includes wages and other remuneration;

“employment period” means the period from the first day of July in each year until the last day of January in the year next following, both days included;

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“guaranteed employment order” means an order made under section 3 prescribing the number of days or hours of employment to be provided or guaranteed by employers in the sugar industry for sugar workers;

“minimum wage” means the minimum rate of wages prescribed by a minimum wages order in respect of the particular sugar worker or category of sugar workers concerned;

“minimum wages order” means an order made under section 3 prescribing minimum wages;

“sugar industry” includes the business of managing or cultivating any plantation on which sugar cane is grown and the business of managing any sugar factory or cane syrup plant;

“sugar worker” means any person employed under a contract of service with an employer, whether the contract is written or oral, expressed or implied, or is a contract of service or apprenticeship, being a person employed—

- (a) in the cultivation, reaping or transportation of sugar canes by the management of any plantation exceeding twenty-five acres in area; or
- (b) in or about any sugar factory or cane syrup plant in the operation or maintenance thereof or in work for any purposes connected therewith or incidental thereto.

(2) For the purposes of this Act, where any person, body corporate, partnership or co-operative society manages two or more parcels of land the total area of which exceeds twenty-five acres, then these parcels of land shall be deemed to be a plantation exceeding twenty-five acres in area.

Minimum wages and guaranteed employment orders

3.(1) The Cabinet may by order—

- (a) prescribe minimum rates of wages for any occupation in the sugar industry, either generally or in any case in which the Cabinet is satisfied

that the wages being paid to any particular sugar workers are unreasonably low;

- (b) prescribe the number of days or hours of employment in any employment period which shall be provided for or guaranteed by such employers in the sugar industry for such sugar workers as may be so prescribed.

(2) Until a minimum wage order is made under paragraph (a) of subsection (1) in respect of the sugar workers specified in the First Schedule, the minimum rates of wages set out therein shall be payable with effect from the 1st July, 1967, to those sugar workers, and a reference in this Act to a sugar worker to whom a minimum wages order applies shall be construed as a reference to a sugar worker specified in the First Schedule.

(3) Until a guaranteed employment order is made under paragraph (b) of subsection (1) in respect of the sugar workers to whom the Second Schedule applies, the number of hours or days of employment to be provided or guaranteed by employers in the sugar industry for sugar workers to whom that Schedule applies shall, with effect from the 1st July, 1968, be as specified in the said Schedule, and a reference in this Act to a sugar worker to whom a guaranteed employment order applies shall be construed as a reference to a sugar worker to whom the Second Schedule applies.

Appointment of Advisory Boards

4. The Cabinet may, where it considers it advisable, appoint Advisory Boards to consider the conditions of employment of any sugar workers.

Effect of orders under section 3

5.(1) Where a contract between a sugar worker to whom a minimum wages order applies and his employer provides for the payment of wages at a rate lower than the minimum wage, it shall have effect as if for that lower rate of wages there were substituted the minimum wage.

(2) Where any contract between a sugar worker to whom a guaranteed employment order applies and his employer provides for conditions of employment less favourable than those prescribed in such order, it shall have effect as if for those conditions of employment there were substituted the conditions of employment specified in such order.

Penalty for non-compliance with orders under section 3

6.(1) An employer who—

- (a) pays to a sugar worker to whom a minimum wages order applies wages less than the minimum wage; or
- (b) fails to provide conditions of employment in accordance with a guaranteed employment order or the provisions of the Second Schedule,

shall for each such offence be liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

(2) Where the employer or any other person charged as a person to whose act or default the offence was due is found guilty of an offence under paragraph (a) of subsection (1), the court may order the employer to pay such sum as is found by the court to represent the difference between the amount which ought to have been paid to the sugar worker by way of wages, if the provisions of the minimum wage order had been complied with, and the amount actually so paid.

Liability of agent and superior employer

7.(1) Where the immediate employer of any sugar worker is himself in the employment of some other person and that worker is employed on the premises of that other person, that other person shall, for the purposes of this Act, be deemed to be the employer of that worker jointly with the immediate employer.

(2) For the purposes of this section, the expression “premises” means any land or building under the management or control of any employer.

Special defence open to employer

8.(1) Where an employer is charged with an offence under section 6, he is entitled, upon information duly laid by him and on giving to the prosecution not less than three days' notice in writing of his intention, to have any other person to whose act or default he alleges that the offence in question was due brought before the court at the time appointed for the hearing of the charge.

(2) Where after the commission of the offence is proved, the employer proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and where the employer further proves that he has used all due diligence to secure that the provisions of this Act and of any order made under section 3 are complied with, he shall be acquitted of the offence.

(3) Where a defendant seeks to avail himself of the provisions of subsection (1)—

- (a) the prosecution, as well as the person whom the defendant charges with the offence is entitled to cross-examine him if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(4) Where it appears to the Chief Labour Officer that an offence has been committed in respect of which proceedings might be taken under this Act against an employer and the Chief Labour Officer is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the employer could establish a defence under this section, the Chief Labour Officer may cause proceedings to be taken against that other person without first causing proceedings to be taken against the employer.

(5) In any proceedings instituted pursuant to subsection (4) the defendant may be charged with, and, on proof that the offence was due to his act or default, be convicted of, the offence with which the employer might have been charged.

Employers not to receive premiums

9.(1) Subject to subsection (2), where a sugar worker to whom a minimum wages order applies is an apprentice or a learner, it shall not be lawful for his employer to receive directly or indirectly from him or on his behalf or on his account any payment by way of premium.

(2) Subsection (1) does not apply to any such payment duly made in pursuance of any instrument of apprenticeship not later than four weeks after the commencement of the apprenticeship or to any such payment made at any time if duly made in pursuance of any instrument of apprenticeship approved for the purposes of this subsection by the Cabinet.

(3) Any employer who contravenes this section shall be liable on summary conviction in respect of each offence to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment, but the court may, in addition to imposing a fine, order him to repay to the sugar worker or other person by whom the payment was made the sum improperly received by way of premium.

Computation of wages

10. Any reference in this Act to wages shall be construed as a reference to the amount obtained or to be obtained in cash by the sugar worker from his employer after allowing for the worker's necessary expenditure, if any, in connection with his employment, and clear of all deductions in respect of any matter whatsoever, except any deductions lawfully made—

- (a) in accordance with the *Protection of Wages Act*, Cap. 351; or
- (b) at the request of the worker either for the purpose of a superannuation scheme or a thrift scheme or for any purpose in the carrying out of

which the employer has no beneficial financial interest, either directly or indirectly; or

- (c) under the *Income Tax Act*, Cap. 73; or
- (d) under the *National Insurance and Social Security Act*, Cap. 47.

Records and notices

11.(1) The employer of any sugar workers to whom an order under section 3 applies shall keep such records as are necessary to show whether or not the provisions of this Act or of any such order are being complied with in respect of them and the records shall be retained by the employer for three years.

(2) The employer of any sugar workers shall post in the prescribed manner such notices as may be prescribed for the purpose of informing them of any order under section 3 affecting them and, if it is so prescribed, shall give notice in any other prescribed manner to the said workers of the said matters or of such other matters, if any, as may be prescribed.

(3) Any employer who fails to comply with any of the requirements of this section shall be liable, on summary conviction, to a fine of five hundred dollars or to imprisonment for six months or to both such fine and imprisonment.

Power of entry, inspection, etc.

12. The Chief Labour Officer, the Deputy Chief Labour Officer, and any other Labour Officer or person authorised in writing by the Chief Labour Officer may—

- (a) require the production of wages sheets or other records of wages kept by an employer and inspect and examine such sheets or records and copy any material part thereof;
- (b) at all reasonable times enter the premises of any employer of sugar workers to whom an order under section 3 applies;

- (c) examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matter under this Act, any person whom he has reasonable cause to believe to be or to have been a sugar worker to whom an order under section 3 applies or applied, or the employer of any such person, or a servant or agent of the employer, and to require every such person to be so examined and to sign a declaration of the truth of the matters in respect of which he is so examined:

Provided that no person shall be required under paragraph (c) to give any information tending to incriminate himself.

Additional powers of Chief Labour Officer, etc.

13.(1) Proceedings for an offence under this Act may be instituted in the name of the Chief Labour Officer or of any person authorised by him in writing in that behalf.

(2) The Chief Labour Officer or any person authorised in writing by him in that behalf may, if it appears to him that a sum is due from an employer to a sugar worker on account of the payment to him of wages less than the minimum wage, institute and conduct on behalf of and in the name of that worker civil proceedings for the recovery of that sum in a magistrate's court notwithstanding that such sum may exceed the normal monetary limit or the civil jurisdiction of that court.

(3) In any proceedings instituted under subsection (2), the court may make an order for the payment of costs by or to the Chief Labour Officer or other person so instituting the proceedings as if he were a party to the proceedings.

(4) The power given by subsection (2) for the recovery of sums due from an employer to a sugar worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

Penalty for obstruction, etc., of Chief Labour Officer

14. Any person who obstructs the Chief Labour Officer, the Deputy Chief Labour Officer or any Labour Officer or other person acting for the purposes of this Act in the exercise of any power conferred by sections 12 and 13, or who

fails to comply with any requirement of such an officer made in the exercise of any such power, shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and imprisonment.

Penalty for false entries in records, etc.

15. Any person who—
- (a) makes or causes to be made or knowingly allows to be made any entry in a record required to be kept by employers for the purposes of this Act which he knows to be false in a material particular; or
 - (b) for purposes connected with this Act, produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he knows to be false in a material particular,

shall be liable on summary conviction to a fine of two hundred and fifty dollars or to imprisonment for three months or to both such fine and imprisonment.

Prosecutions to be instituted within one year of offence

16. Notwithstanding section 115 of the *Magistrates Jurisdiction and Procedure Act*, Cap. 116, an information for an offence under this Act may be laid within one year of the commission of the offence.

Expenses

17. There shall be paid out of moneys voted for the purpose by Parliament any expenses incurred by Advisory Boards or by the Chief Labour Officer or any other such officer in carrying into effect this Act.

Power to make regulations

- 18.** The Cabinet may make regulations—
- (a) with respect to the constitution, appointment and functions of Advisory Boards;
 - (b) prescribing anything which by this Act is required or authorised to be prescribed; and
 - (c) generally for carrying into effect this Act.

Savings

- 19.** Nothing in this Act shall prevent organisations of sugar workers to whom a minimum wages order or a guaranteed employment order applies and organisations of employers of such workers from settling by agreement in respect of those workers wages higher than the minimum wages prescribed by such minimum wages order or specified in the First Schedule or a number of hours or days of employment in excess of that prescribed by such guaranteed employment order or specified in the Second Schedule.

FIRST SCHEDULE

(3 (2))

*MINIMUM RATES OF WAGES PAYABLE TO SUGAR WORKERS ENGAGED IN OUT-OF-CROP
WORK FROM 30TH JUNE IN EACH YEAR TO 31ST JANUARY IN THE YEAR NEXT FOLLOWING*



SECOND SCHEDULE*(s. 3 (3))**HOURS OF EMPLOYMENT TO BE PROVIDED OR GUARANTEED IN EACH EMPLOYMENT PERIOD*

- 1.** In the case of sugar workers employed on an hourly basis, the number of hours of employment to be provided or guaranteed by employers in the sugar industry for those workers to whom this Schedule applies shall be not less than 24 hours of employment in each period of seven days during an employment period.
- 2.** In the case of sugar workers employed on a task work basis, the minimum employment to be provided during each period of seven days in each employment period by employers in the sugar industry for those workers to whom this Schedule applies shall be such as would enable each such worker to earn not less than the minimum earnings of a sugar worker of the same class as set out in the First Schedule who is employed on an hourly basis.
- 3.** This Schedule applies to every sugar worker who, on 1st July, 1968 and on 1st July in each subsequent year, is registered with the Chief Labour Officer as a sugar worker of a particular plantation, sugar factory or cane syrup plant, being a person who during the immediately preceding three years was employed as a sugar worker on any plantation or in or about any sugar factory or cane syrup plant for not less than 480 hours in each employment period during the said period of three years.
- 4.** For the purposes of this Schedule, the management of every sugar plantation and of every sugar factory or cane syrup plant shall, as soon as may be after being required to do so by the Chief Labour Officer, forward to the Chief Labour Officer the names of all persons who are employed as sugar workers in such plantation or in or about such sugar factory or cane syrup plant and the dates on which the employment of such persons commenced.