

## CHAPTER 362

### WAGES COUNCILS

1955-41

This Act came into operation on 14th October, 1955.

#### **Amended by:**

*1961-5*

*1966-15*

*1972-2*

*1965-58*

*1969-61*

*1967/168*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1978

---

#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## CHAPTER 362

### WAGES COUNCILS 1955-41

#### *Arrangement of Sections*

1. Short title

#### PART I

#### PRELIMINARY

2. Interpretation

#### PART II

#### ESTABLISHMENT OF WAGES COUNCILS

3. Power of Minister to establish wages councils
4. Applications for wages council orders and reference to commission of enquiry
5. Reference to commission of enquiry without application for wages council order
6. Proceedings on references to commission of enquiry
7. Making of wages council order
8. Variation and revocation of wages council order
9. General provisions as to wages councils

- 10.** General provisions as to commission of enquiry

**PART III**

**WAGES REGULATION ORDERS**

- 11.** Wage regulation proposals concerning remuneration holidays and sick leave
- 12.** Wage regulation orders
- 13.** Effect and enforcement of wages regulation order
- 14.** Permits in respect of infirm and incapacitated persons
- 15.** Computation of remuneration
- 16.** Employers not to receive premiums
- 17.** Records and notices
- 18.** Criminal liability of agent and superior employer, and special defence open to employer
- 19.** Powers of Labour Officers
- 20.** Penalty for false entries in records, producing false records or giving false in-formation
- 21.** Offence to disclose information, etc., given before wages council
- 22.** Prosecution to be instituted within one year of offence

PART IV

MISCELLANEOUS

23. Regulations

24. Expenses

FIRST SCHEDULE

*CONSTITUTION, OFFICERS AND PROCEEDINGS OF WAGES COUNCILS*

SECOND SCHEDULE

*CONSTITUTION, OFFICERS AND PROCEEDINGS OF COMMISSION OF ENQUIRY*



**BARBADOS****WAGES COUNCILS  
1955-41**

*An Act to provide for the establishment of Wages Councils.*

[Commencement: 14th October, 1955]

**Short title**

1. This Act may be cited as the Wages Councils Act.

**PART I****PRELIMINARY****Interpretation**

2. For the purposes of this Act—  
“Chief Labour Officer” includes any person authorised in writing by the Chief Labour Officer to act on his behalf;  
“Minister” means the Minister responsible for Labour;  
“outworker” means a person to whom articles or materials are given out to be made up, washed, altered, ornamented, finished or repaired or adapted for

sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“superannuation schemes” means any enactment, rule, deed or other instrument providing for the payment of annuities or lump sums to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits;

“thrift scheme” means any arrangement for savings, for providing money for holidays or for other purposes, under which a worker is entitled to receive in cash sums equal to or greater than the aggregate of any sums deducted from his remuneration or paid by him for the purposes of the scheme;

“wages council” and “commission of enquiry” mean respectively a wages council and a commission of enquiry established or set up under this Act;

“worker” means any person who has entered into or works under a contract with an employer, whether the contract be for manual labour, clerical work or otherwise, be expressed or implied, oral or in writing, and whether it be a contract of service or of apprenticeship or a contract personally to execute any work or labour, except that it does not include any person who is employed casually and otherwise than for the purpose of the employer’s business.

---

[1972-2]

---

PART II  
ESTABLISHMENT OF WAGES COUNCILS

**Power of Minister to establish wages councils**

3.(1) Subject to this Part, the Minister may by order establish a wages council to perform, in relation to the workers described in the order and their employers, the functions specified in this Act.

(2) An order establishing a wages council (hereafter in this Act referred to as a wages council order) may be made by the Minister either—

- (a) where if he is of opinion that no adequate machinery exists for the effective regulation of the remuneration of the workers described in the order and that, having regard to the remuneration existing amongst those workers or any of them, it is expedient that such a council should be established; or
- (b) in the circumstances hereinafter specified in pursuance of a wages council recommendation made in accordance with the subsequent provisions of this Part.

**Applications for wages council orders and reference to commission of enquiry**

4.(1) An application for the establishment of a wages council with respect to any workers and their employers may be made to the Minister either—

- (a) by a joint industrial council, conciliation board or other similar body constituted by organisations representative respectively of those workers and their employers; or
- (b) jointly by any organisation of workers and any organisation of employers which claim to be organisations that habitually take part in the settlement of remuneration and conditions of employment for those workers,

on the ground, in either case, that the existing machinery for the settlement of remuneration and conditions of employment for those workers is likely to cease to exist or be adequate for that purpose.

(2) Subject to this subsection and subsection (3), where such an application as aforesaid is made to the Minister, the Minister shall—

- (a) if he is satisfied, in the case of an application under paragraph (b) of subsection (1), that the claim of the organisations habitually to take part in the settlement of remuneration and conditions of employment for those workers is well founded and, in any case that there are sufficient grounds to justify the reference of the application to a commission of enquiry, refer the application to such a commission to enquire into and report on the application;
- (b) if he is not so satisfied, notify the applicants to that effect, in which case no further steps shall be taken on the application unless and until he is so satisfied by fresh facts brought to his notice:

Provided that before taking either of the said courses the Minister may require the applicants to furnish such information, if any, in relation to the application as he considers necessary.

(3) Where, on considering an application under subsection (1), it appears to the Minister either—

- (a) that there is a joint industrial council, conciliation board or other similar body constituted by organisations of workers and organisations of employers, being a council, board or body which would or might be affected by the establishment of a wages council in pursuance of the application; or
- (b) that there are organisations of workers and organisations of employers representative respectively of workers other than workers to whom the application relates and their employers who would or might be affected by the establishment of a wages council as aforesaid,

being a council, board or body or, as the case may be, organisations, which are parties to joint voluntary machinery for the settlement of remuneration and conditions of employment but are not parties to the application for a wages council, the Minister shall—

- (i) before deciding to refer the application to a commission of enquiry, give notice of the application to that council, board or body or, as the case may be, to those organisations;
  - (ii) consider any observations in writing which may be submitted to him by them within such period as he may direct, not being less than one month from the date of the notice; and
  - (iii) if he decides to refer the application to a commission of enquiry, transmit a copy of the observations to the commission.
- (4) Where, before an application is referred to a commission of enquiry, it is withdrawn by the applicants, no further proceedings shall be had thereon.

#### **Reference to commission of enquiry without application for wages council order**

5. Without prejudice to section (4), the Minister, if, in his opinion, no adequate machinery exists for the effective regulation of the remuneration of any workers or the existing machinery is likely to cease to exist or be adequate for that purpose and in either case a reasonable standard of remuneration amongst those workers will not be maintained, may, without any such application as is mentioned in that section, refer to a commission of enquiry the question whether a wages council should be established with respect to any of those workers and their employers.

#### **Proceedings on references to commission of enquiry**

6.(1) Where the Minister makes a reference to a commission of enquiry under either section 4 or 5, it shall be the duty of the commission to consider not only the subject-matter of the reference but also any other question or matter which, in the opinion of the commission, is relevant thereto, and in particular to

consider whether there are any other workers (being workers who, in the opinion of the commission, are engaged in work which is complementary, subsidiary or closely allied to the work performed by the workers specified in the reference or any of them) whose position should be dealt with together with that of the workers, or some of the workers, so specified; and, in relation to any such reference to a commission of enquiry, any reference in this Part to the workers with whom the commission is concerned shall be construed as a reference to the workers so specified and any such other workers.

(2) Where the commission is of opinion with respect to the workers with whom it is concerned or any of those workers whose position should, in the opinion of the commission, be separately dealt with—

- (a) that there exists machinery set up by agreement between organisations representing workers and employers respectively which is, or which can, by improvements which it is practicable to secure, be made adequate for regulating the remuneration and conditions of employment of those workers; and
- (b) that there is no reason to believe that that machinery is likely to cease to exist or be adequate for that purpose,

the commission shall report to the Minister accordingly and may include in its report any suggestions which it may think fit to make as to the improvement of that machinery.

(3) Where any such suggestions are so included, the Minister shall take steps as appear to him to be expedient and practicable to ensure the improvements in question.

(4) Where the commission is of opinion, with respect to the workers with whom it is concerned or any of those workers whose position should in the opinion of the commission be separately dealt with—

- (a) that machinery for regulating the remuneration and conditions of employment of those workers is not, and cannot by any improvements

which it is practicable to secure be made, adequate for the purpose, or does not exist; or

- (b) that the existing machinery is likely to cease to exist or be adequate for that purpose,

and that, as a result, a reasonable standard of remuneration amongst those workers is not being or will not be maintained, the commission may make a report to the Minister embodying a recommendation (hereafter in this Act referred to as a wages council recommendation) for the establishment of a wages council in respect of those workers and their employers.

(5) Where such a wages council recommendation is made, the Minister may, subject to this Part, make a wages council order giving effect to the recommendation.

(6) In considering for the purposes of this section whether any machinery is, or is likely to remain, adequate for regulating the remuneration and conditions of employment of any workers, the commission shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or awards arrived at or given thereunder and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

### **Making of wages council order**

7.(1) Before making a wages council order, whether in pursuance of a wages council recommendation or not, the Minister shall cause to be published, in such manner as he thinks fit, notice of his intention to make the order, specifying a place where copies of a draft thereof may be obtained and the time, which shall not be less than forty days from the publication, within which any objection made with respect to the draft order must be sent to him.

- (2) Every objection so made must be in writing and must state—
- (a) the specific grounds of objection; and
- (b) the omissions, additions or modifications asked for;

and the Minister shall consider any such objection made by or on behalf of any person appearing to him to be affected, being an objection sent to him within the time specified in the notice, but shall not be bound to consider any other objection.

(3) Where there are no objections which the Minister is required by subsection (2) to consider, or after considering all such objections, the Minister is of the opinion that all those objections either—

- (a) in the case of an order to be made in pursuance of a wages council recommendation, were made to the commission of enquiry which made the recommendation and were expressly dealt with in the report embodying that recommendation; or
- (b) in any case, will be met by modifications which he proposes to make under this subsection, or are frivolous,

he may make the order either in the terms of the draft order or subject to such modifications, if any, as he thinks fit, being modifications which, in his opinion, do not affect important alterations in the character of the draft order as published.

(4) Where the Minister does not proceed under subsection (3), he may, if he thinks fit, either—

- (a) amend the draft order, in which case all the provisions of this section shall have effect in relation to the amended draft order as they have effect in relation to an original draft order; or
- (b) refer the draft order to a commission of enquiry for enquiry and report, in which case the Minister shall consider the report of the commission of enquiry and may then, if he thinks fit, make an order either in the terms of the draft or with such modifications as he thinks fit.

(5) Where the Minister makes a wages council order, he shall cause the same to be published in such manner as he thinks fit, and the order shall come into operation on the date on which it is so published or on such later date as is specified therein.

**Variation and revocation of wages council order**

**8.(1)** The Minister may at any time by order abolish, or vary the field of operation of a wages council, and the provisions of section 7 shall apply in relation to any such order as they apply in relation to wages council orders:

Provided that where the order directs that a wages council shall cease to operate in relation to any workers and that another wages council shall operate in relation to them, but save as aforesaid, does not affect the field of operation of any wages council, then in any such case—

- (i) the provisions of section 7 shall not apply; but
- (ii) before making the order, the Minister shall consult the councils concerned; and
- (iii) when the order is made, the Minister shall publish it in such manner as he thinks fit, and it shall come into operation on the date on which it is so published or on such later date as is specified therein.

(2) Without prejudice to the generality of subsection (1), an application for the abolition of a wages council may be made to the Minister jointly by organisations of workers and organisations of employers which represent respectively substantial proportions of the workers and employers with respect to whom that council operates, on the ground that those organisations jointly provide machinery which is, and is likely to remain, adequate for the effective regulation of remuneration and conditions of employment for those workers, and where such an application is made, the Minister shall either make an order giving effect to the application or refer the application to a commission of enquiry to enquire into and report thereon; and where an application is so referred to such a commission, section 7 shall, in relation to an order made in pursuance of a recommendation of that commission, have effect as if any reference in that section to a wages council recommendation included a reference to the recommendation aforesaid.

(3) Where an order of the Minister directs that a wages council shall cease to operate in relation to any workers and that another wages council shall operate in relation to them, the order may provide that anything done by, or to give effect to any proposals made by, the first-mentioned wages council shall have effect in relation to those workers as if it had been done by, or to give effect to proposals made by, the second-mentioned wages council, and may make such further provisions as appear to the Minister to be expedient in connection with the transition.

(4) Where an order of the Minister under this section directs that a wages council shall be abolished or shall cease to operate in relation to any workers, then, save as is otherwise provided by the order, anything done by, or to give effect to proposals made by, the wages council shall, except as respects things previously done or omitted to be done, cease to have effect in relation to the workers in relation to whom the wages council ceases to operate.

(5) In considering for the purposes of this section whether any machinery is, or is likely to remain, adequate for the effective regulation of the remuneration and conditions of employment of any workers, a commission of enquiry shall consider not only what matters are capable of being dealt with by that machinery, but also to what extent those matters are covered by the agreements or awards arrived at thereunder and to what extent the practice is, or is likely to be, in accordance with those agreements or awards.

### **General provisions as to wages councils**

**9.(1)** The First Schedule shall have effect with respect to the constitution, officers and proceedings of wages councils.

(2) A wages council shall consider, as occasion requires, any matter referred to it by the Minister or the Chief Labour Officer with reference to the industrial conditions prevailing as respects the workers and employers in relation to whom it operates and shall make a report upon the matter to the Minister or the Chief Labour Officer, and a wages council may, if it thinks it expedient so to do, make

of its own motion a recommendation to the Minister or the Chief Labour Officer with reference to the said conditions.

**General provisions as to commission of enquiry**

**10.(1)** The Second Schedule shall have effect with respect to the constitution, officers and proceedings of commissions of enquiry.

(2) Where any application, question or other matter is referred to a commission of enquiry under this Part, the commission shall make all such investigations as appear to it to be necessary and shall publish, in such manner as is prescribed by regulations to be made under this Act by the Minister, a notice stating the questions which it is its duty to consider by virtue of the reference and further stating that it will consider representations with respect thereto made to it in writing within such period as may be specified in the notice, not being less than forty days from the publication thereof; and it shall consider any representations made to it within that period and then make such further enquiries as it considers necessary, including, so far as it considers necessary, the hearing of oral evidence.

(3) Any power conferred by this Part on the Minister to make an order giving effect to a recommendation of a commission of enquiry shall be construed as including power to make an order giving effect to that recommendation with such modifications as he thinks fit, being modifications which, in the opinion of the Minister, do not effect important alterations in the character of the recommendation.

(4) Where the Minister receives a report from a commission of enquiry, he may, if he thinks fit, refer the report back to the commission, and the commission shall thereupon reconsider the report having regard to any observations made by the Minister and shall make a further report, and the like proceedings shall be had on any such further report as in the case of an original report.

## PART III

## WAGES REGULATION ORDERS

**Wage regulation proposals concerning remuneration holidays and sick leave**

**11.(1)** Subject to and in accordance with this section, any wages council shall have power to submit to the Minister proposals (hereafter in this Act referred to as wages regulation proposals)—

- (a) for fixing the remuneration to be paid, either generally or for any particular work and for prescribing the conditions of employment to be provided by their employers to all or any of the workers in relation to whom the council operates;
- (b) for requiring all or any such workers to be allowed holidays by their employers.

(2) The power to submit proposals for fixing remuneration shall include power to submit proposals for fixing holiday remuneration.

(3) Wages regulation proposals for requiring a worker to be allowed a holiday—

- (a) shall not be made unless both holiday remuneration in respect of the period of the holiday and remuneration other than holiday remuneration have been or are being fixed under this Part for that worker;
- (b) shall provide for the duration of the holiday being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the holiday; and
- (c) subject as aforesaid, may make provision as to the times at which or the periods within which and the circumstances in which the holiday shall be allowed.

(4) Wages regulation proposals for fixing holiday remuneration may contain provisions as to the times at which that remuneration shall accrue and shall become payable and for securing that any such remuneration which has accrued due to a worker during his employment by an employer shall, in the event of his ceasing to be employed by that employer before he becomes entitled to be allowed a holiday by him, nevertheless become payable by the employer to the worker.

(5) Wages regulation proposals for prescribing the conditions of employment to be provided by their employers to all or any of the workers in relation to whom a wages council operates may contain provisions for requiring a worker to be allowed sick leave and for fixing the remuneration to be paid in respect of any period of sick leave.

[1965-58]

(6) Wages regulation proposals for requiring a worker to be allowed sick leave and for fixing sick leave remuneration—

- (i) shall not be made unless both sick leave remuneration in respect of sick leave and remuneration other than sick leave and remuneration other than sick leave remuneration have been or are being fixed under this Part;
- (ii) shall provide for the duration of sick leave being related to the duration of the period for which the worker has been employed or engaged to be employed by the employer who is to allow the sick leave;
- (iii) may make provision as to the times at which and the circumstances in which sick leave shall be allowed;
- (iv) may make provision as to the times at which sick leave remuneration shall accrue and become payable and for securing the payment of any such remuneration which has accrued due to a worker;
- (v) may provide that an employer by whom sick leave is granted to a worker shall not, during the period of such leave, dismiss or give notice of dismissal to the worker.

[1965-58]

(7) Before submitting any wages regulation proposals to the Minister, a wages council shall make such investigations as it thinks fit and shall publish in such manner as shall be prescribed by regulations made by the Minister under this Act notice of the proposals stating the place where copies of the proposals may be obtained and the period, which shall be not less than twenty-one days from the date of the first publication of the notice, within which written representations with respect to the proposal may be sent to the council; and the council shall consider any written representations made to it within that period and shall make such further enquiries as it considers necessary and may then submit the proposals to the Minister either without amendment or with such amendment as it thinks fit, having regard to the representations.

### **Wage regulation orders**

**12.(1)** Where the Minister receives any wages regulation proposals, he may make an order (hereinafter referred to as a wages regulation order) giving effect to those proposals either without amendment or, subject to subsections (9) and (10), with such amendments as he thinks fit, as from such date as may be specified in the order.

(2) Where the Minister proposes to make a wages regulation order giving effect to any amended wages regulation proposals, he shall, before making such order, refer the proposals as amended to the wages council and the wages council shall reconsider them and within six weeks of such reference resubmit them to the Minister with such observations thereon as it thinks fit, and the Minister may, if he thinks it expedient, give effect to such observations.

*[1969-61]*

(3) The procedure set out in subsection (7) of section 11 shall apply to any amended proposals referred to the Wages Council pursuant to subsection (2) except that—

- (i) the period within which written representations on the amended proposals may be sent to the wages council may be reduced to ten days; and

(ii) the wages council may not further amend the proposals.

[1969-61]

(4) The date to be specified in a wages regulation order shall be a date subsequent to the date of the order, and where, as respects any worker who is paid wages at intervals not exceeding seven days, the date so specified does not correspond with the beginning of the period for which the wages are paid, the order shall, as respects that worker, become effective as from the beginning of the next such period following the date specified in the order.

[1969-61]

(5) As soon as the Minister has made a wages regulation order, he shall give notice of the making thereof to the wages council and that wages council shall give such notice of the order and the contents thereof as may be prescribed for the purpose of informing, so far as practical, all persons who will be thereby affected.

(6) Any wages regulation proposals and any wages regulation order for giving effect thereto may make different provision for different cases and may also contain provision for the amendment or revocation of previous wages regulation orders.

(7) No wages regulation order shall have effect as so to prejudice any rights as to remuneration or holidays conferred on any worker under any enactment other than this Act.

(8) Remuneration (including holiday and sick leave remuneration) fixed by a wages regulation order is hereafter in this Act referred to as statutory minimum remuneration.

[1965-58]

---

[1969-61]

### **Effect and enforcement of wages regulation order**

**13.(1)** Where a contract between a worker to whom a wages regulation order applies and his employer provides for the payment of less remuneration than the

statutory minimum remuneration, it shall have effect as if for that less remuneration there were substituted the statutory minimum remuneration, and if any such contract provides for the payment of any holiday or sick leave remuneration at times or subject to conditions other than those specified in the order, it shall have effect as if for those times or conditions there were substituted the times or conditions specified in the order.

(2) Where an employer fails to pay to a worker to whom a wages regulation order applies remuneration not less than the statutory minimum remuneration, or fails to pay to any such worker holiday or sick leave remuneration at the times and subject to the conditions specified in the order or fails to allow to any such worker the holidays or sick leave fixed by the order, he shall be liable on conviction by a court of summary jurisdiction to a fine of one hundred dollars for each offence.

*[1965-58]*

(3) Where the employer or any other person charged as the person to whose act or default the offence was due has been found guilty of an offence under this section consisting of a failure to pay remuneration not less than the statutory minimum remuneration, 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 worker by way of remuneration, if this Part had been complied with, and the amount actually so paid.

(4) An employer who contravenes any provision or requirement of a wages regulation order other than a provision or requirement for the contravention of which a penalty is provided for in subsection (2) is guilty of an offence and is liable on conviction thereof by a court of summary jurisdiction to a fine of one hundred dollars.

*[1965-58]*

(5) Where proceedings are brought under this section in respect of an offence consisting of a failure to pay remuneration not less than the statutory minimum

remuneration, then, if notice of intention so to do has been served with the summons, warrant or complaint—

- (a) evidence may, on the employer or any other person charged as a person to whose act or default the offence was due having been found guilty of the offence, be given of any like contravention on the part of the employer in respect of any period during the two years immediately preceding the date of the offence; and
  - (b) on proof of the failure, 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 during that period to the worker by way of remuneration, if this Part had been complied with, and the amount actually so paid.
- (6) The powers given by this section for the recovery of sums due from an employer to a worker shall not be in derogation of any right to recover such sums by civil proceedings.

---

[1965-58]

### **Permits in respect of infirm and incapacitated persons**

**14.(1)** Where, as respects any worker employed or desiring to be employed in such circumstances that a wages regulation order applies or will apply to him, the wages council is satisfied on application being made to it for a permit under this section either by the worker or the employer or a prospective employer that the worker is affected by infirmity or physical incapacity which renders him incapable of earning the statutory minimum remuneration, it may, if it thinks fit grant, subject to such conditions, if any, as it may determine, a permit authorising his employment at less than the statutory minimum remuneration, and while the permit is in force the remuneration authorised to be paid to him by the permit shall, if those conditions are complied with, be deemed to be the statutory minimum remuneration.

(2) Where an employer employs any worker in reliance on any document purporting to be a permit granted under subsection (1) authorising the employment of that worker at less than the statutory minimum remuneration, then, if the employer has notified the wages council in question that relying on that document, he is employing or proposing to employ that worker at a specified remuneration, the document shall, notwithstanding that it is not or is no longer a valid permit relating to that worker, be deemed, subject to the terms thereof and as respects only any period after the notification, to be such a permit until notice to the contrary is received by the employer from the council.

### **Computation of remuneration**

**15.(1)** Subject to this section, any reference in this Part to remuneration shall be construed as a reference to the amount obtained or to be obtained in cash by the 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 the *National Insurance and Social Security Act*, Cap. 47.  
[1966-15]

(2) Notwithstanding anything in subsection (1), wages regulation proposals and wages regulation orders may contain provisions, authorising specified benefits or advantages, being benefits or advantages provided, in pursuance of the terms and conditions of the employment of workers, by the employer or by some other person under arrangements with the employer and not being benefits or advantages the provision of which is illegal by virtue of the *Protection of Wages Act* or of any other enactment, to be reckoned as payment of wages by

the employer in lieu of payment in cash and defining the value at which any such benefits or advantages are to be reckoned.

(3) Where any payment is made by a worker in respect of any benefit or advantage provided as mentioned in subsection (2), then—

- (a) if the benefit or advantage is authorised by virtue of subsection (2) to be reckoned as payment of wages by the employer in lieu of payment in cash, the amount of the payment shall be deducted from the defined value for the purposes of reckoning the benefit or advantage;
- (b) if the benefit or advantage is authorised by virtue of subsection (2) to be reckoned as payment of wages by the employer in lieu of payment in cash, any excess of the amount of the payment over the defined value shall be treated for the purposes of subsection (1) as if it had been a deduction not being one of the excepted deductions therein mentioned;
- (c) if the benefit or advantage is specified in a wages regulation order as one which has been taken into account in fixing the statutory minimum remuneration, the whole of the payment shall be treated for the purposes of subsection (1) as if it had been a deduction not being one of the excepted deductions therein mentioned.

(4) Nothing in this section shall be construed as authorising the making of any deduction or the giving of remuneration in any manner which is illegal by virtue of the *Protection of Wages Act*, Cap. 351 or of any other enactment.

### **Employers not to receive premiums**

**16.(1)** Where a worker to whom a wages regulation order applies is an apprentice or 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) Nothing in subsection (1) shall 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 proviso by a wages council.

(3) Where any employer acts in contravention of this section, he shall be liable on conviction by a court of summary jurisdiction in respect of each offence to a fine of one hundred dollars, and the court may, in addition to imposing a fine, order him to repay to the worker or other persons by whom the payment was made the sum improperly received by way of premium.

### **Records and notices**

**17.(1)** The employer of any workers to whom a wages regulation order applies shall keep such records as are necessary to show whether or not the provisions of this Part are being complied with as respects them, and the records shall be retained by the employer for three years.

(2) The employer of any workers shall post in the prescribed manner such notice as may be prescribed for the purposes of informing them of any wages regulation proposals or wages regulation order affecting them and, if it is so prescribed, shall give notice in any other prescribed manner to those workers of those matters and of such other matters, if any, as may be prescribed.

(3) An employer who fails to comply with any of the requirements of this section shall be liable on conviction by a court of summary jurisdiction to a fine of one hundred dollars.

### **Criminal liability of agent and superior employer, and special defence open to employer**

**18.(1)** Where the immediate employer of any 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 Part be deemed to be the employer of that worker jointly with the immediate employer.

(2) Where an employer is charged with an offence under this Part, he shall be 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 and if, after the commission of the offence has been proved, the employer proves that the offence was due to the act or the default of that other person, that other person may be convicted of the offence and, if the employer further proves that he has used all due diligence to secure that this Part and any relevant regulation or order made thereunder are complied with, he shall be acquitted of the offence.

- (3) Where a defendant seeks to avail himself of subsection (2), then—
- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him if he gives evidence and any witnesses 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 Part 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 subsection (2), 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 such proceedings 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.

**Powers of Labour Officers**

**19.(1)** The Chief Labour Officer, Deputy Chief Labour Officer or a Labour Officer shall have power for the performance of their duties—

- (a) to require the production of wages sheets or other records of wages kept by an employer and records of payments made to outworkers by persons giving out work and any other such records as are required by this Part to be kept by employers, and to inspect and examine those sheets or records and copy any material part thereof;
- (b) to require any person giving out work and any outworker to give any information which it is in his power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, as the case may be, and with respect to the payments to be made for the work;
- (c) at all reasonable times to enter any premises at which any employer to whom a wages regulation order applies carries on his business (including any place used in connection with that business for giving out work to outworkers and any premises which the officer has reasonable cause to believe to be used by or by arrangement with the employer to provide living accommodation for workers);
- (d) to inspect and copy any material part of any list of outworkers kept by an employer or person giving out work to outworkers;
- (e) to examine, either alone or in the presence of any other person, as he thinks fit, with respect to any matters under this Part, any person whom he has reasonable cause to believe to be or to have been a worker to whom a wages regulation order applies or applied or the employer of any such person or a servant or agent of the employer employed in the employer's business, 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 (e) to give any information tending to incriminate himself.

(2) The Chief Labour Officer or any person authorised by him in writing in that behalf may institute and conduct proceedings for any offence under this Part.

(3) 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 worker on account of the payment to him of remuneration less than the statutory minimum remuneration, institute and conduct on behalf of and in the name of that worker civil proceedings for the recovery of that sum in any of the magistrates' courts.

(4) In any such proceedings the court may make an order for the payment of costs by the Chief Labour Officer or other persons so instituting the proceedings as if he were a party to the proceedings.

(5) The power given by subsection (3) for the recovery of sums due from an employer to a worker shall not be in derogation of any right of the worker to recover such sums by civil proceedings.

(6) Any person who obstructs the Chief Labour Officer, Deputy Chief Labour Officer or a Labour Officer in the exercise of any power conferred by this section or refuses to comply with any requirement of such an officer made in the exercise of any such power shall be liable on conviction by a court of summary jurisdiction to a fine of one hundred dollars.

**Penalty for false entries in records, producing false records or giving false in-formation**

**20.** Any person who—

- (a) makes or causes to be made or knowingly allows to be made any entry in a record required by this Part to be kept by employers, which he knows to be false in a material particular; or

- (b) for purposes connected with this Part 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 conviction by a court of summary jurisdiction to a fine of five hundred dollars or to imprisonment for three months or to both such fine and such imprisonment.

**Offence to disclose information, etc., given before wages council**

**21.** Any person who, being a member of a wages council or present at or concerned in any proceedings of a wages council, discloses any information or the contents of any document which has been furnished to such wages council, except with the written consent of the person who furnished the information or the document and of the council, shall be liable on conviction by a court of summary jurisdiction to a fine of one hundred dollars or to imprisonment for three months or to both such fine and such imprisonment.

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

**22.** No prosecution for any offence under this Act shall be instituted except within one year of the commission of the offence.

PART IV

MISCELLANEOUS

**Regulations**

**23.(1)** The Minister may make regulations for prescribing anything which by this Act is required or authorised to be prescribed.

(2) All regulations made under this Act shall be subject to negative resolution.

**Expenses**

**24.** There shall be paid out of moneys voted for the purpose by Parliament any expenses incurred by wages councils, commissions of enquiry or officers in carrying into effect this Act.

**FIRST SCHEDULE***(s. 9 (1))**CONSTITUTION, OFFICERS AND PROCEEDINGS OF WAGES COUNCILS*

1. A Wages Council shall consist of persons appointed by the Minister being—
  - (a) not more than three persons chosen by the Minister as being independent persons;
  - (b) such number of persons not less than three as the Minister thinks fit, who, in his opinion, represent employers in relation to whom the wages council or, as the case may be, the wages councils in question, is or are to operate;
  - (c) such number of persons not less than three as the Minister thinks fit, who, in his opinion, represent workers in relation to whom the wages council or, as the case may be, the wages councils in question, is or are to operate.
2. Of the persons appointed under sub-paragraph (a) of paragraph 1, one shall be appointed by the Minister to act as chairman and another may be appointed by the Minister to act as deputy chairman in the absence of the chairman.
3. Before appointing a person under sub-paragraph (b) or sub-paragraph (c) of paragraph 1, the Minister shall consult any organisations appearing to him to represent employers or, as the case may be, workers concerned, and the persons appointed under those sub-paragraphs shall be equal in number.
4. The Minister may appoint a secretary and such other officers as he thinks fit of a wages council.

5. The proceedings of a wages council shall not be invalidated by reason of any vacancy therein or by any defect in the appointment of a member.

6. A wages council may, if it thinks fit, delegate any of its powers under his Act (except the powers to submit wages regulation proposals) to a committee consisting of such number of persons, being members of the wages council, as the wages council thinks fit:

Provided that the members of the committee representing employers and the members of the committee representing workers shall be equal in number.

7. The Minister may make regulations as to the meeting and procedure of a wages council and of any committee thereof, including regulations as to the quorum and the method of voting, but, subject to the Act and to any regulations so made, a wages council and any committee thereof may regulate its procedure in such manner as it thinks fit.

8. The term for which a member of a wages council is to hold office shall be such as may be determined by the Minister at the time of his appointment, and the conditions subject to which he is to hold office shall be such as may be prescribed by the Minister.

9. There shall be paid from moneys voted for the purposes of this Act by Parliament to the members of a wages council appointed under subparagraph (a) of paragraph 1 such remuneration and to any member of any such council such travelling and other allowances (including compensation for loss of working time) as may be approved by the Minister.

**SECOND SCHEDULE***(s. 10 (1))**CONSTITUTION, OFFICERS AND PROCEEDINGS OF COMMISSION OF ENQUIRY*

1. Every commission of enquiry shall consist of persons appointed by the Minister being—
  - (a) not more than three persons chosen by the Minister as being independent persons;
  - (b) not more than two persons chosen by the Minister to represent employers;
  - (c) not more than two persons chosen by the Minister to represent workers.
2. Of the persons appointed under sub-paragraph (a) of paragraph 1, one shall be appointed by the Minister to act as chairman and another may be appointed by the Minister to act as deputy chairman in the absence of the chairman.
3. The persons appointed by the Minister under sub-paragraphs (b) and (c) of paragraph 1 shall be equal in number and shall be appointed after such consultation as the Minister may consider necessary with such organisations representing employers and workers respectively as he thinks fit, and the persons shall be persons who, in the opinion of the Minister, are not connected with or likely to be affected by the matters to be enquired into by the commission.
- 4.(1) The Minister may appoint such number of persons as he thinks fit as assessors to be available to any commission of enquiry, being persons who, in the opinion of the Minister, have an expert knowledge of any of the matters with which the commission's enquiry is concerned.
  - (2) An assessor shall not vote or otherwise be a party to any report or recommendation of the commission.

- 5.** The Minister may appoint a secretary and such other officers as he thinks fit of any commission of enquiry.
- 6.** The proceedings of a commission of enquiry shall not be invalidated by reason of any vacancy therein or by any defect in the appointment of a member.
- 7.** The Minister may make regulations as to the meetings and procedure of commissions of enquiry, including regulations as to the quorum, but, subject to this Act and to any regulation so made, a commission of enquiry may regulate its procedure in such manner as it thinks fit.
- 8.** There shall be paid from moneys voted for the purposes of this Act by Parliament to the members of, and assessors to, any commission of enquiry such remuneration and such travelling and other allowances (including compensation for loss of working time) as may be approved by the Minister.