

Zambia

Minimum Wages and Conditions of Employment, 1982 Chapter 276

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Minimum Wages and Conditions of Employment, 1982
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Minimum Wages and Conditions of Employment, 1982

Chapter 276

Published

Commenced on 21 August 1982

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[Act No. 25 of 1982; 13 of 1994]

An Act to repeal and replace the Minimum Wages, Wages Councils and Conditions of Employment Act; to make provision for regulating minimum wage levels and minimum conditions of employment; and to provide for matters connected with or incidental to the foregoing.

1. Short title

This Act may be cited as the Minimum Wages and Conditions of Employment Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**protected worker**" means a worker to whom a statutory order made under this Act applies;

"**Labour Commissioner**" means the person appointed as such under section four of the Employment Act;

[Cap. 268]

"**labour officer**" shall have the meaning ascribed thereto in section three of the Employment Act;

[Cap. 268]

"**wage**" includes remuneration of any kind.

3. Regulation of wages, etc.

(1) If the Minister is of the opinion that no adequate provision exists for the effective regulation of minimum wages or minimum conditions of employment for any group of workers he may, by statutory order, prescribe-

- (a) rates of wages to be paid to workers by the hour, day, week or month;
- (b) normal hours of work in any day or week;
- (c) normal working days in any week or month;
- (d) rates for any work done in excess of or outside the normal hours of work or the normal working days;
- (e) rates of paid holidays or any conditions attaching to the granting of such holidays;
- (f) rates for any piecework;
- (g) rates of allowance for any food or housing; and
- (h) any other matter which in the opinion of the Minister is necessary or expedient to prescribe:

Provided that if the group of workers in respect of which a statutory order is to be made is represented by a trade union, no such order shall be made before consulting such trade union.

- (2) Any person affected by a statutory order made under this section may apply to the Minister for a review of such order.

4. Duties of employer

- (1) Every employer of a protected worker shall, in respect of such worker, compile and maintain such records of-
- (a) all wages and allowances paid;
 - (b) any benefits given; and
 - (c) any other matter required by the statutory order;
- as are necessary to prove compliance with such statutory order.
- (2) Any employer who fails to comply with the provisions of subsection (1) shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units.
- (3) Any employer who knowingly makes, causes to be made or allows to be made any record referred to in sub-section (1) which is false in any material particular shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a term not exceeding six months, or to both.
- (4) Any employer who fails to comply with any statutory order made under this Act shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding two thousand five hundred penalty units or to imprisonment for a term not exceeding six months, or to both.
- (5) A court before which any employer is charged with an offence under this section may, if it is satisfied that any wage or other payment is due from such employer to any worker, order such employer to pay the same to such worker:

Provided that any such order shall not prejudice the right of any worker to recover any wages or other payment by any other proceedings.

[As amended by Act No. 13 of 1994]

5. Functions of Labour Commissioner and labour officers

- (1) For the purpose of securing the due observance of this Act or any statutory order or regulation made hereunder, the Labour Commissioner, and any labour office authorised in writing in that behalf by the Labour Commissioner, shall have power to-
- (a) order the production, for examination, of any record required to be compiled and maintained under section four, and make copies thereof or take extracts therefrom;
 - (b) enter, at all reasonable times, upon any land or premises, other than a private dwelling-house, where any protected worker is employed; and
 - (c) interrogate, either alone or in the presence of any other person, any-
 - (i) protected worker;
 - (ii) employer of a protected worker;
 - (iii) servant or agent of an employer of a protected worker; or
 - (iv) person in respect of whom there is reason to believe that he belongs, or has belonged, to any of the classes of persons referred to in sub-paragraphs (i), (ii) or (iii).
- (2) The Labour Commissioner or a labour officer shall not, otherwise than in the performance of his duties under this Act, or for the purpose of any criminal or civil proceedings, disclose any

information obtained in exercise of the powers contained in sub-section (1); and shall not, without the consent of the complainant, disclose the source of any complaint made by any person alleging contravention of any provision of this Act or any statutory order made hereunder.

- (3) Any person contravening the provision of sub-section (2) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units.
- (4) Any person who obstructs the Labour Commissioner or any labour officer in the exercise of the powers contained in sub-section (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one thousand two hundred and fifty penalty units.

[As amended by Act No. 13 of 1994]

6. Recovery of wages

- (1) Where it appears to the Labour Commissioner that-
 - (a) any sum is due from an employer to a protected worker by reason of the failure of the employer to comply with any statutory order made under this Act; and
 - (b) it is not possible to recover such sum or any part thereof by means of proceedings under sub-section (5) of section four; and
 - (c) by reason of the neglect of the protected worker to institute any proceedings, it is necessary or expedient for the Labour Commissioner to intervene;he may institute civil proceedings on behalf, and in the name, of the protected worker for the recovery of the sum due.
- (2) A court before which proceedings are instituted by the Labour Commissioner in exercise of the powers contained in sub-section (1) shall, in addition to any other powers, have the power, for the purposes of ordering costs, to deem the Labour Commissioner to be a party to the proceedings.

7. Exemption permits

- (1) If the Labour Commissioner is satisfied that a protected worker, or a person desiring to become a protected worker, is affected by any infirmity or physical disablement, he may, subject to such conditions as he thinks fit, issue to such person an exemption permit.
- (2) If the protected worker, or the person desiring to become a protected worker, referred to in sub-section (1) belongs to a group of workers, of which group a substantial proportion of workers is, in the opinion of the Minister, represented by a trade union, the Labour Commissioner shall not exercise his powers under sub-section (1) before consulting such trade union.
- (3) An exemption permit issued under sub-section (1) shall, while it is in force and in accordance with its conditions, exempt the employer of its holder from the application, in respect of such holder, of such provisions of this Act, and any statutory order or regulation made hereunder, as is relevant in the particular case.

8. Void agreements

Any agreement which contravenes any of the provisions of this Act, or any statutory order or regulation made hereunder, shall be void to the extent of such contravention.

9. Regulations

The Minister may, by statutory instrument, make regulations prescribing any matter which is necessary for the better carrying out of the provisions of this Act.

10. Repeal and savings

- (1) The Minimum Wages, Wages Councils and Conditions of Employment Act is hereby repealed.
- (2) Notwithstanding the provisions of sub-section (1), every determination which was, prior to the commencement of this Act, effective in accordance with paragraph (d) of sub-section (3) of section eleven of the Minimum Wages, Wages Councils and Conditions of Employment Act shall continue in force until it is revoked or replaced by a statutory order made hereunder.

[Cap. 506 of the old volumes]