
Fifth Session Third Parliament Trinidad and Tobago
25 Elizabeth II



P-
R(Saw) vol III 221

TRINIDAD AND TOBAGO

Act No. 35 of 1976

[L.S.]

AN ACT respecting minimum wages and terms and conditions of employment.

[Assented to 18th June, 1976]

BE IT ENACTED by the Queen's Most Excellent Majesty, ^{Enactment} by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same, as follows:—

1. This Act may be cited as the Minimum Wages Act, ^{Short title} 1976.

Interpretation

2. In this Act—

“Board” means the Minimum Wages Board appointed by the Minister under section 4;

“Chairman” means the Chairman of the Board;

“Deputy Chairman” means the Deputy Chairman of the Board;

“employer” means a person who employs a worker;

“employment” includes any trade, business, profession, office, vocation or apprenticeship;

“Minister” means the member of the Cabinet to whom responsibility for Labour is assigned;

“out-worker” means a person to whom articles or materials are given out to be made up, cleaned, 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 articles or materials;

“worker” means a person in receipt of earnings from an employer in respect of employment and includes an out-worker.

Minister may
fix minimum
wage

3. (1) The Minister may by Order published in the *Gazette*, (hereinafter called a “Minimum Wage Order”) fix minimum wages and terms and conditions of service for any class of workers generally or for any class of workers in a particular industry or undertaking or where satisfied that it is necessary so to do fix a national minimum wage applicable to workers generally.

(2) An Order under this section may—

(a) specify hours of work and other terms and conditions of service in relation to any minimum wage;

(b) provide for different minimum wages for workers in different categories of undertakings engaged in the same employment;

- (c) provide that a national minimum wage shall not apply to workers of a specified category or to workers in a specified area or shall apply to such workers only subject to specified conditions.

(3) An Order under this section shall be subject to negative resolution of the Senate and House of Representatives.

4. For the purposes of this Act the Minister shall appoint a Board to be known as the Minimum Wages Board. Appointment of Minimum Wages Board

5. (1) The Board shall consist of seven members including— Composition of the Board

- (a) one member nominated by the associations most representative of employers;
- (b) one member nominated by the associations most representative of labour;
- (c) one Government representative.

(2) One member of the Board shall be appointed Chairman by the Minister. The Deputy Chairman shall be selected by the Board at its first meeting.

6. The Board shall advise and make recommendations to the Minister on all matters relating to the fixing of minimum wages and terms and conditions of service. Functions of the Board

7. (1) Subject to subsection (2) a member shall serve on the Board for the period specified in his instrument of appointment. Term on Board

(2) A member, other than the Chairman, may at any time resign by giving notice thereof in writing to the Chairman who shall thereupon forward such notice to the Minister, and the Chairman may resign by giving notice thereof in writing to the Minister. Resignation shall be effective upon receipt of notice by the Minister.

8. (1) The Board shall meet at such times as may be necessary or expedient for the discharge of its functions under this Act. Meetings and procedure of Board

(2) The Chairman, or in his absence the Deputy Chairman, and three other members shall constitute a quorum.

(3) In the case of an equality of votes the Chairman or Deputy Chairman as the case may be shall, in addition to his original vote, have a casting vote.

(4) Subject to this section, the Board may make rules for the regulation of its own proceedings and procedures.

Remuneration
of members

9. Members of the Board shall be paid such remuneration and allowances as may be authorised by the Minister.

Minister to
assign staff
to Board

10. The Minister shall assign to the Board from the officers of his Ministry a Secretary and such other staff as may be required for the Board to perform its functions efficiently.

Minister to
refer to Board

11. Where in the opinion of the Minister it is necessary to fix or vary a minimum wage or terms and conditions of service for any workers, either because—

- (a) there is no machinery for the effective regulation of the remuneration or terms and conditions of service for such workers; or
- (b) the existing machinery is not adequate or is likely to cease to be adequate for that purpose,

he shall refer the matter to the Board for their recommendation and advice.

Board to
determine
existence of
machinery
for regulating
remuneration,
etc. and report
thereon

12. (1) Upon a referral by the Minister, the Board shall determine whether there exists any or any adequate machinery for the regulation of the remuneration or terms and conditions of service of the workers in respect of whom the referral was made or any of them.

(2) Where it is determined that regulatory machinery does exist, the Board shall examine the adequacy of that machinery and report thereon to the Minister. There shall be included in the report such recommendations as the Board may think fit for improving the efficiency of the machinery.

(3) Where, in the opinion of the Board, there are among the workers in respect of whom the referral was made, some whose case should be dealt with separately either on the ground that there exists regulatory machinery in respect of some of the workers and not others, or that the nature or hours of employment of some workers differs from that of others or for any other reason, the Board shall so advise the Minister.

13. Where having considered a referral by the Minister, the Board is of the opinion that the Minister should fix a minimum wage or other terms and conditions of service in respect of the workers in respect of whom the referral was made or any of them, the Board shall so recommend and shall include in the recommendation—

Recommendation
of Board

- (a) a proposed minimum wage;
- (b) terms relating to paid holiday and sick leave; and
- (c) such other basic conditions, including danger money, dirt money, on-call or stand-by money, as the nature of the case may require.

14. In recommending a proposed minimum wage or other terms and conditions of service, the Board shall consider—

Matters to be
considered
by Board

- (a) the general level of wages in Trinidad and Tobago;
- (b) the cost of living;
- (c) contributions payable and benefits provided under the system of national insurance established by the National Insurance Act, 1971; and
- (d) other economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining high levels of employment.

Act No. 35
of 1971

15. The Minister may accept the recommendation or advice of the Board either fully or in part or he may reject it.

Minister may
accept or
reject advice
of Board

Minister to
publish notice
of intention

16. Where upon receipt of recommendation or advice of the Board the Minister proposes to make an Order fixing or varying a minimum wage or terms and conditions of service, he shall publish a notice to that effect in the *Gazette* and in at least one daily newspaper in circulation in Trinidad and Tobago. The notice shall contain a draft of the proposed Order and shall state the time, which shall not be less than twenty-one days from the date of publication of the notice within which any written objection to the draft Order may be submitted.

Objections

17. (1) A person objecting to the making of an Order shall forward his objection to the Minister, stating—

- (a) the grounds of objection;
- (b) the nature of his interest in the matter;
- (c) such additions, modifications or amendments to the draft Order as he may think fit.

(2) The Minister shall forthwith refer all objections to the Board.

Board to
comment on
objections
and Minister
may make order

18. The Board shall forward their comments on the objections to the Minister and may submit such additions, amendments or modifications to the draft Order as they may determine and the Minister may thereupon make a Minimum Wage Order in such terms as he thinks fit having regard to the comments on the objections as forwarded by the Board.

Effect of
Minimum
Wages Order

19. (1) Subject to subsection (2) every worker to whom a Minimum Wage Order applies, shall, as from the making of the Order, be paid by his employer, remuneration not less than the minimum wage prescribed in the Order, hereinafter referred to as the "statutory minimum remuneration" and shall enjoy such other terms and conditions of service no less favourable than the terms and conditions of service prescribed in the Order, notwithstanding that the remuneration or terms and conditions of service of such worker may be provided for in a collective agreement or in a written contract.

(2) Every worker to whom a Minimum Wage Order applies and who receives remuneration more than the statutory minimum remuneration and enjoys other terms and conditions of service more favourable than the terms and conditions of service prescribed in the Order shall in no way be adversely affected by reason only of the making of the Order.

20. The employer of every worker to whom a Minimum Wage Order applies shall keep and maintain such records in respect of that worker as may be necessary to show whether or not the provisions of the Order are being complied with in respect of that worker and unless seized and taken away by an authorised officer under the provisions of section 22(1) such records shall be retained by the employer for a period of three years.

Employer to
keep records

21. The Minister may authorise in writing any officer in his Ministry, hereinafter referred to as an "authorised officer", to require any employer or any person authorised by any employer, except a person engaged in a confidential, professional relationship with such employer—

Authorised
officers powers
of inspection

- (a) to give him information with respect to remuneration paid to and terms and conditions of service enjoyed by workers, in respect of whom a Minimum Wage Order applies, in the service of that employer;
- (b) to permit him to inspect any records or paysheets relating to such workers.

22. (1) An authorised officer may at all reasonable times enter any premises or place where any workers to whom a Minimum Wages Order applies are employed or in the case of outworkers where the articles or materials are given out, or where there are any books, records or other documents relating to such workers, and—

Powers of entry

- (a) examine such books, records or other documents relating thereto;
- (b) search, if necessary with the assistance of any other person, any building, receptacle or place for books, records, documents, papers or things which may afford evidence as to the violation of any provision of this Act;

- (c) where, during the course of the examination it appears to the authorised officer that there has been a violation of this Act, seize and take away any of the books, records or other documents relating to workers and retain them until they are produced in any proceedings; so however that where such books, records or other documents are necessary for the continued operations of the business reasonable access thereto shall be allowed to the employer;
- (d) require the employer or any person in the service of that employer to give him all reasonable assistance with, and to answer all questions relating to, the examination.

(2) Admission to premises shall not be demanded except on the warrant of a magistrate so however that if it is shown to the satisfaction of a magistrate on sworn information in writing—

- (a) that admission to any premises has been refused or that refusal is apprehended or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any purpose as is mentioned in subsection (1),

the magistrate may by warrant under his hand authorise entry on the premises, except that such a warrant shall not be issued unless the magistrate is satisfied either that written notice of the intention to apply for a warrant has been given to the occupier, or that giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section may take with him such other persons as may be necessary to effect the purpose of his entry.

(4) Every warrant issued under this section shall continue in force until the purpose for which the entry is required has been satisfied.

(5) Every person who hinders or molests or interferes with any person doing anything that he is authorised by subsection (1) to do or prevents or attempts to prevent any person from doing any such thing and any person who, unless he is unable to do so, fails or refuses to do anything he is required by or pursuant to this section to do, is guilty of an offence and liable on summary conviction to a fine of one thousand five hundred dollars or imprisonment for two years or to both such fine and imprisonment.

23. Any person who in furnishing any particulars for the purposes of this Act makes any statement which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts or by the reckless making of any statement, dishonestly or otherwise, misleads or attempts to mislead any other person, is guilty of an offence and liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for two years or to both such fine and imprisonment.

False information
—penalty

24. (1) Every employer who pays a worker less than the statutory minimum remuneration or whose terms and conditions of service are less favourable than the terms and conditions of service prescribed in a Minimum Wage Order applying to such worker or who contravenes the provisions of section 19(2) or section 18 for two years or to both such fine and imprisonment, is guilty of an offence and is liable on summary conviction to a fine of two thousand dollars or to imprisonment

Penalty for
contravening
Minimum Wage
Order

(2) Where an offence under this section is committed by a body corporate and is proved to have been attributable to the fault of any director, manager, secretary or other officer of the body corporate, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

25. In any case where an employer has been convicted of paying less than the statutory minimum remuneration to any worker, the employer shall be liable to pay to the worker a sum equal in amount to the difference between the amount actually paid as remuneration and the statutory minimum remuneration.

Recovery of
remuneration

Victimization
offence penalty

26. (1) An employer who is charged or convicted under section 24(1) shall not dismiss a worker or otherwise adversely affect him by reason only of the fact that—

- (a) his charge or conviction was founded on non-compliance with a Minimum Wage Order or a contravention of section 20(2) in respect of that worker; or
- (b) the worker gave information to any authorised officer or permitted any authorised officer to inspect or seize and take away any books, records or documents of the employer or in any other way assisted any person doing anything that he was authorised by section 22(1) to do.

(2) An employer who contravenes any of the provisions of subsection (1) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for two years or to both such fine and imprisonment and the Court may order the employer to pay compensation to the worker in any case where the worker entered the service of the employer subsequent to the Minimum Wage Order coming into force.

Regulations

27. The Minister may make regulations generally for the purpose of giving effect to this Act.

Transitional
provisions

Ch. 22. No. 16

28. Notwithstanding section 29, where at the commencement of this Act, there is in force any wages regulation Order made under the Wages Councils Ordinance in respect of any workers, such Order shall continue in force until a Minimum Wage Order made by the Minister comes into effect in respect of those workers and any person who contravenes such Order shall be proceeded against as if he had contravened a Minimum Wage Order.

Repealed
Ch. 22. No. 16

29. The Wages Councils Ordinance is hereby repealed.

Act binds
Crown

30. This Act binds the Crown.

Passed in the House of Representatives this 11th day
of June, 1976.

J. E. CARTER
Clerk of the House

Passed in the Senate this 15th day of June, 1976.

R. L. GRIFFITH
Clerk of the Senate

