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c 181 Hours of Work and Vacations with Pay Act

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CHAPTER 181

The Hours of Work and Vacations
with Pay Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Industry and Labour Board;
- (b) "employee" means a person who is in receipt of or entitled to compensation for labour or services performed for another;
- (c) "employer" includes every person, firm, corporation, agent, manager, representative, contractor or sub-contractor having control, direction of, or responsible, directly or indirectly, for the employment of an employee;
- (d) "industrial undertaking" means,
 - (i) every establishment and undertaking and all work in or about any industry, and
 - (ii) any establishment, undertaking or work in or about any business, trade or occupation that is prescribed by the regulations;
- (e) "regulations" means the regulations made under this Act. R.S.O. 1950, c. 173, s. 1.

2.—(1) Subject to this Act, the working hours of an employee in an industrial undertaking shall not exceed eight in the day and forty-eight in the week. Limitation
of hours
of work

(2) Subject to this Act, every employee in an industrial undertaking shall be given a vacation of at least one week with pay for every working year of his employment. Vacations

(3) The employer may determine the period when each employee may take the vacation provided for in subsection 2, but the period shall not be later than ten months after the conclusion of the working year. Employer
may deter-
mine period
of vacation

(4) The amount of pay for the vacation given to an employee in respect of each working year under subsection 2 shall not be less than an amount equal to 2 per cent of the Amount of
pay for
vacation

pay received by the employee for all work done by him in the working year. R.S.O. 1950, c. 173, s. 2.

Supervisors
and
confidential
employees
exempted

3. Subsection 1 of section 2 does not apply to a person holding a position of supervision or management or employed in a confidential capacity so long as the duties performed by him are entirely of a supervisory, managerial or confidential character and do not include any work or duty customarily performed by an employee, and in case of dispute as to whether a person holds such a position or is so employed, the decision of the Board is final. R.S.O. 1950, c. 173, s. 3.

Agreements

4. Where in the opinion of the Board it is not feasible to apply subsection 1 of section 2 or the regulations in an industrial undertaking or branch thereof, the Board may by order authorize such daily and weekly limit of working hours in the industrial undertaking or branch or by any class or group of employees as are agreed upon in writing between organizations or representatives of the employees and employers affected and as the Board deems proper. R.S.O. 1950, c. 173, s. 4.

War
industries

5. Where in the opinion of the Board an industrial undertaking or branch thereof is a war industry and it is not feasible to apply subsection 1 of section 2 or the regulations, the Board may suspend subsection 1 of section 2 or any of the regulations with regard to the industrial undertaking or branch thereof or any class or group of employees so long as the industrial undertaking or branch continues to be a war industry, upon such terms and conditions as the Board deems advisable, or may, by order, authorize such working hours as it deems proper. R.S.O. 1950, c. 173, s. 5.

Accidents,
exemptions

6. The limit of hours of work prescribed by subsection 1 of section 2 may be exceeded in case of accident, or in case of work urgently required to be done to machinery or plant, or in case of force majeure, but only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking. R.S.O. 1950, c. 173, s. 6.

Inquiry into
partnership,
association,
or scheme

7.—(1) The Board may hold an inquiry into the facts respecting any persons engaged or working in or about an industrial undertaking as members or alleged members of a partnership or association, or in the execution of any agreement or scheme of profit-sharing or co-operative or joint contract or undertaking, including the investigation of the contractual and other relations of the persons so engaged or working, as between themselves or as between them and their

master or employer, and, if the Board is of opinion that the partnership, association, agreement or scheme is intended or has the effect, either directly or indirectly, of defeating the true intent and object of this Act, the Board may make such order as it deems proper declaring any of such persons or any class or group thereof to be employers and any of such persons or any class or group thereof to be employees for the purposes of this Act.

(2) For the purposes of any such inquiry, the chairman of the Board has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1950, c. 173, s. 7. Powers of chairman on inquiry R.S.O. 1960, c. 323

8.—(1) An employer shall, on demand of the Board or of the chairman or of any person authorized in writing by the Board or by the chairman, produce for inspection all records kept by him relating to the hours of labour of any person employed by him. Production of records

(2) The Board may by notice in writing require an employer forthwith, or within a time stated in the notice, to make provision for the true and correct recording of the hours of work of each of his employees, with respect to starting-time, stopping-time and rest intervals, by means of time-clocks or in such manner as the Board directs. R.S.O. 1950, c. 173, s. 8. Time-clocks

9.—(1) The Board or any member thereof, or any person authorized in writing by the chairman, may, Inspection and production of records

- (a) inspect and examine all books, pay-rolls and other records of any employer that in any way relate to the hours of labour of any of his employees;
- (b) take extracts from or make copies of any entry in such books, pay-rolls and records;
- (c) require any employer to make or furnish full and correct statements, either orally or in writing in such form as is required, respecting the hours of work of any of his employees, and require the statements to be made by the employer on oath or to be verified by his statutory declaration;
- (d) require any employee to make full disclosure, production or delivery to the Board, or to the person so authorized, of all records, documents, statements, writing, books or papers, or extracts therefrom or copies thereof, or other information either verbal or in writing that the employee has in his possession

or under his control and either verified on oath or otherwise as is directed, which may in any way relate to his hours of work as an employee.

Power to
administer
oaths

(2) The members of the Board and every person authorized pursuant to subsection 1 has power to administer all oaths and take all affidavits and statutory declarations required or authorized to be made under subsection 1 and to certify to the administration or taking thereof. R.S.O. 1950, c. 173, s. 9.

Regulations

10. Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) prescribing any establishment, undertaking or work in or about any business, trade or occupation that shall be deemed to be an industrial undertaking for the purposes of this Act;
- (b) prescribing industrial undertakings and branches thereof in which the working hours prescribed by subsection 1 of section 2 may be exceeded either by specified times or under specified conditions or generally, prescribing, in each case, the maximum of such excess and imposing terms and conditions in connection therewith;
- (c) prescribing the maximum number of hours that may elapse between the commencement and the termination of the daily work period or periods of an employee;
- (d) for the purposes of subsection 2 of section 2, prescribing the working year in any industry in terms of weeks, days or hours with all reasonable allowances for overtime work, seasonal employment and other special conditions, and, where the working year is less than the equivalent of eight months of work at normal hours, providing for the pro-rationing of the vacation referred to in such subsection;
- (e) providing for the application of subsection 2 of section 2 where, owing to illness or other unavoidable absence an employee has been absent from his employment, and such other regulations as it deems necessary for the due application and administration of such subsection;
- (f) providing, in lieu of a vacation with pay, for the payment to an employee who has ceased to be employed by an employer, of an amount equal to two per cent of his total earnings for the period in respect of which he is entitled to a vacation with pay, and

fixing the minimum periods of employment to which a regulation made under this clause shall apply;

- (g) providing for a system of vacation-with-pay credit stamps for use in such industrial undertakings as are designated and providing for the sale and redemption of such stamps;
- (h) requiring employers in any industrial undertaking or branch thereof to notify employees, by the publication of such notices as it determines or in such other manner as it prescribes, of the provisions of this Act, any regulations or orders made hereunder, particulars of hours of work including the hours at which work begins and ends, the hours at which shifts change, particulars of rest periods and such other information as is prescribed;
- (i) prescribing the records that shall be kept and the returns that shall be made by employers. R.S.O. 1955, c. 173, s. 10.

11.—(1) Every employer who employs a person or permits an employee to work contrary to this Act or the regulations or an order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$25 and not more than a total of \$5 in respect of each employee for each day during the continuance of the contravention. Offence,
employers

(2) Every employer who contravenes any provision of this Act or the regulations or any order or requirement of the Board is guilty of an offence and on summary conviction if no other penalty is provided is liable to a fine of not less than \$25 and not more than \$500. Idem

(3) Every employee who contravenes any provision of this Act or the regulations or an order made under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1950, c. 173, s. 11. Offence,
employees

12.—(1) In addition to the penalty imposed on an employer for failure to grant a vacation with pay to an employee, the magistrate may order the employer to pay to the employee an amount equal to the pay he would have received for such vacation or the amount to which he would be entitled under the regulations. Additional
penalty

(2) An order made under subsection 1 shall be filed in a division court where, Filing of
order

- (a) the conviction upon which the order is based,
- (i) is not appealed from within the time prescribed therefor, or
 - (ii) is confirmed upon appeal; and

R.S.O. 1960,
c. 110

- (b) the fee prescribed under *The Division Courts Act* is paid to the clerk of the division court,

and such order thereupon is of the same force and effect as a judgment in the division court. R.S.O. 1950, c. 173, s. 12.

Conflict
with other
Acts

13. Where there is conflict between the provisions of this Act or any regulation or order made under this Act and the provisions of any other Act of the Legislature or any regulation made thereunder, the provision that provides for shorter working hours prevails, and in all questions of doubt or dispute the decision of the Board is final. R.S.O. 1950, c. 173, s. 13.

Expenses
of adminis-
tration

14. The expenses incurred in the administration of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1950, c. 173, s. 14.
