1960

c 186 Industrial Standards Act

Ontario

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Bibliographic Citation
Industrial Standards Act, SO 1966, c 186
Repository Citation
Available at: http://digitalcommons.osgoode.yorku.ca/rso/vol1960/iss2/61

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CHAPTER 186

The Industrial Standards Act

1. In this Act,

(a) "association of employees" means a group of employees organized for the purpose of advancing their economic conditions and that is free from undue influence, domination, restraint or interference by employers or associations of employers;

(b) "Board" means the Industry and Labour Board appointed under The Department of Labour Act;

(c) "employer" includes a person who by himself or his agent or representative is directly or indirectly responsible for the payment of wages to a person who comes within the provisions of a schedule promulgated as hereinafter provided;

(d) "industry" includes a business, calling, trade, undertaking and work of any nature whatsoever and any branch thereof and any combination thereof that the Minister designates;

(e) "Minister" means the Minister of Labour or such member of the Executive Council as is for the time being charged with the administration of this Act;

(f) "officer" means an industrial standards officer appointed under this Act;

(g) "wages" includes any form of remuneration for labour performed and, without restricting the generality of the foregoing, includes payment at an hourly, daily, weekly or monthly rate or on a production basis at a piece-work or unit-price rate. R.S.O. 1950, c. 179, s. 1.

2. The Lieutenant Governor in Council may appoint one or more persons as industrial standards officers whose duty it is to assist in carrying out this Act and the regulations and schedules. R.S.O. 1950, c. 179, s. 2.

3. Every officer has such powers and duties as are prescribed by this Act and the regulations and has authority to conduct inquiries and investigations respecting all matters
Minister may define zones

4.—(1) The Minister may designate the whole of Ontario, or any part or parts thereof, as a zone or zones for an industry for the purposes of this Act.

(2) An area so designated as a zone may be enlarged or reduced or divided into separate zones by the representatives of employers and employees in any conference held as hereinafter provided and, upon the approval of the Minister, the area as enlarged, reduced or divided, shall be deemed to be the designated zone or zones for the industry affected.

(3) Where the Minister designates a zone for an interprovincially competitive industry, the zone shall, notwithstanding subsections 1 and 2, be the whole of Ontario and any schedule for the industry may provide for different wages and hours and days of labour for different areas in the zone.

Powers of Board

5. The Board has jurisdiction and authority,

(a) to administer and enforce this Act, the regulations and the schedules;

(b) to hear appeals from the decisions of any advisory committee;

(c) with the concurrence of the proper advisory committee and subject to the approval of the Lieutenant Governor in Council, to make an order amending any schedule;

(d) to require any employer to pay to the Board the arrears of wages owing to an employee or employees according to any schedule and in its discretion to direct that the whole or a part of such wages be either forfeited to the Crown or paid to the employee or employees entitled thereto;

(e) to determine and designate which industries are interprovincially competitive, and with respect to any such industry,

(i) may approve or withhold approval of a schedule with respect to the collection of revenue from employers and employees in the industry and with respect to the exercise by the advisory committee of any powers in connection with the collection of such assessments and the disbursement of moneys collected, except that the
assessments that may be approved shall not exceed one-half of one per cent of an employee's wages and one-half of one per cent of an employer's pay-roll,

(ii) may require the advisory committee to furnish estimates of receipts and expenses annually, and to furnish quarterly reports, certified by an auditor approved by the Board, accounting for all money collected and disbursed. R.S.O. 1950, c. 179, s. 5; 1957, c. 49, s. 1.

6. The Minister may, upon the petition of representatives of employers or employees in an industry in a designated zone or zones, authorize an officer to convene a conference of the employers and employees in the industry for the purpose of investigating and considering the conditions of labour and the practices prevailing in the industry and for negotiating with respect to any of the matters enumerated in subsection 1 of section 7. R.S.O. 1950, c. 179, s. 6.

7.—(1) The conference may submit to the Minister in writing a schedule of wages and hours and days of labour for the industry affected and the schedule may,

(a) establish the maximum number of hours comprising the regular working day and prescribe the hours of the day during which such hours of work are to be performed;

(b) establish the maximum number of hours comprising the regular working week;

(c) establish the minimum rates of wages for the regular working periods;

(d) establish the particular days in the week for the performance of labour in the industry;

(e) establish the rates of wages and the periods for, and the conditions governing, overtime work;

(f) classify the employees and employers and separately provide for each classification with respect to any of the matters that may be dealt with in the schedule;

(g) define any term used in the schedule;

(h) specify the particular operations that are included in the industry;

(i) prohibit overtime work without a permit and authorize the advisory committee to issue the permits subject to the terms and conditions of the schedule;
When the advisory committee fixes a minimum rate of wages lower than the rate fixed by the schedule for any classification of employees or for any individual who performs work included in more than one classification of employees, or whose work is only partly subject to the schedule, or who is handicapped;

subject to the approval of the Board and with respect only to an interprovincially competitive industry, assess employers only or employers and employees in any such industry to provide revenue for the enforcement of the schedule, and authorize the advisory committee generally to administer and enforce the schedule, and to collect the assessments, and out of the revenue collected to engage inspectors and other personnel and to make such expenditures as are necessary for such administration and enforcement. R.S.O. 1950, c. 179, s. 7 (1); 1957, c. 49, s. 2, part.

When the advisory committee fixes a minimum rate of wages lower than the rate fixed by the schedule, such lower rate shall be deemed to be the rate fixed by the schedule. 1957, c. 49, s. 2, part.

The Minister may revise any schedule of wages and hours and days of labour submitted to him by a conference so that it will meet the requirements of The Regulations Act and the regulations made thereunder. R.S.O. 1950, c. 179, s. 7 (2).

If, in the opinion of the Minister, the schedule of wages and hours and days of labour submitted by the conference is agreed to by a proper and sufficient representation of employers and employees, he may approve thereof and upon his recommendation the Lieutenant Governor in Council may declare the schedule to be in force during pleasure, or for the period not exceeding twelve months stipulated in the schedule, within such designated zone or zones as are prescribed and to be binding upon the employers and employees in the industry referred to in the schedule. R.S.O. 1950, c. 179, s. 8.

Every employer affected by a schedule shall cause a copy of the schedule to be posted in a conspicuous place
where his employees are engaged in their duties so that it may be readily seen and read by them and shall cause the schedule to be there maintained so long as it remains in force. R.S.O. 1950, c. 179, s. 9.

10. For the purposes of this Act every person who is in any way engaged in an industry shall, in so far as he personally performs work in the industry, be deemed an employee and, in so far as he employs another person or is the proprietor of a shop or business either alone or in partnership with another person, be deemed an employer, and this Act and the regulations and schedules shall, mutatis mutandis, be read and construed accordingly, notwithstanding that he may thereby become both an employer and an employee or may become an employer for one purpose and an employee for another purpose, or that his status may be changed from time to time. R.S.O. 1950, c. 179, s. 10.

11. When a schedule is in force, the Board may require any employer affected thereby,

(a) to furnish the name, address and age of all employees and such further information respecting wages, hours and days and conditions of labour as are required by the regulations; and

(b) to produce for inspection by any person acting under the authority of this Act or any schedule any books, registers, pay-rolls, financial statements, attendance records, time records, contracts of employment and such other information as is deemed necessary and to give access to the employer's premises at all reasonable times to such person for the purpose of obtaining such information. R.S.O. 1950, c. 179, s. 11.

12. The Lieutenant Governor in Council may make such regulations as he deems necessary for carrying out this Act and for its efficient administration. R.S.O. 1950, c. 179, s. 12.

13.—(1) For every zone or group of zones to which a schedule applies, the Minister may establish an advisory committee of not more than five members, one of whom shall be designated as chairman, and the committee may hear complaints of employers and employees to whom such schedule applies and may generally assist in carrying out this Act and the regulations and have jurisdiction and authority to do anything that it is authorized to do by such schedule and shall be
deemed to be a corporation for the purpose of collecting any money that it is authorized to collect or paying any money that it is authorized to pay.

(2) An employer or employee aggrieved by the decision of an advisory committee has a right to appeal from the decision to the Board and the Board has jurisdiction to hear and determine the appeal and its decision is final. R.S.O. 1950, c. 179, s. 13.

14.—(1) Every employer who contravenes the provisions of a schedule applicable to him is guilty of an offence and on summary conviction for a first offence is liable to a fine of not less than $25 and not more than $100, and in default of payment to imprisonment for a term of not more than two months, and for any subsequent offence is liable to a fine of not less than $50 and not more than $500, and in default of payment to imprisonment for a term of not more than six months, and, if convicted for failing to pay the minimum rate of wages prescribed by a schedule applicable to him, shall be ordered to pay to the Board as an additional penalty the full amount of the wages then found to be unpaid to any employee under the schedule.

(2) Every employee who contravenes the provisions of a schedule applicable to him is guilty of an offence and on summary conviction is liable to a fine of not less than $5 and not more than $25 and in default of payment to imprisonment for a term of not more than ten days.

(3) No prosecution shall be instituted under this Act except with the consent of the Board and the production of a writing signed by a member of the Board is sufficient evidence of the consent of the Board. R.S.O. 1950, c. 179, s. 14.

15. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction, where no penalty has been specifically provided, is liable to a fine of not less than $1 and not more than $100 and in default of payment to imprisonment for a term of not more than thirty days. R.S.O. 1950, c. 179, s. 15.

16.—(1) The Factory, Shop and Office Building Act, The Master and Servant Act, The Minimum Wage Act, The Public and other Works Wages Act, The Wages Act and The Woodmen’s Employment Act shall be read and construed subject to this Act, but in no case shall the wages prescribed by a schedule to this Act be for a less amount nor shall the hours of labour prescribed by a schedule be for a greater number of hours in each day or days in each week than is prescribed by any of such Acts.
(2) The rates of wages prescribed by any schedule shall not be for lesser amounts nor shall the number of hours of labour in each day or the number of days of labour in each week be greater than is provided in The Hours of Work and Vacations with Pay Act, The Minimum Wage Act or The Factory, Shop and Office Building Act and the regulations thereunder.

(3) The rates of wages for apprentices to whom The Apprenticeship Act applies shall be the rates provided under that Act and the regulations thereunder. R.S.O. 1950, c. 179, s. 16.

17. No schedule is applicable to the mining industry, to the agricultural industry or to any other business, calling, trade, undertaking or work exempted by the regulations. R.S.O. 1950, c. 179, s. 17.

18.—(1) In this section, "retail gasoline service industry" means the business of operating retail gasoline service stations, gasoline pumps or outlets where gasoline is offered for sale at retail, including washing, waxing, oiling or lubricating automotive vehicles, repairing or changing tires and other services and undertakings incidental thereto, but does not include a gasoline outlet on the premises of an employer and used in the fueling of automotive vehicles owned or operated by the employer.

(2) Notwithstanding anything in this Act, no schedule applicable to the retail gasoline service industry shall prescribe the hours of the day during which the hours of work may be performed or shall establish the particular days of the week for the performance of labour in the industry. R.S.O. 1950, c. 179, s. 18.