1937

c 190 Minimum Wage Act

Ontario

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SECTION X.

LABOUR AND WAGES.

CHAPTER 190.

The Minimum Wage Act.

1. In this Act,—

   "Board," (a) "Board" shall mean the Industry and Labour Board established under The Department of Labour Act;

   "Employee," (b) "Employee" shall include every person who performs any work in any business, trade, work, undertaking or occupation for wages or with the hope or expectation of receiving wages either directly from his employer or indirectly through another person;

   "Employer," (c) "Employer" shall include every person who as the owner, proprietor, manager, superintendent or overseer of any business, trade, work or undertaking employs or permits any person to work in such business, trade, work or undertaking;

   "Wage," (d) "Wage" or "wages" shall include any form of remuneration for labour performed. 1937, c. 43, s. 2.

2. The Board may arrange for a conference between employers and employees or their representatives in any business, trade, work, undertaking or occupation for the purpose of obtaining information as to the prevailing rates of wages and conditions of employment and may accept recommendations from such conference with respect to any matters which may be dealt with by an order of the Board. 1937, c. 43, s. 3.
3. The Board shall have authority to establish minimum rates of wages for all employees and generally to enact such provisions with respect to conditions of employment as may be deemed necessary for the betterment of the physical, moral and intellectual well-being of employees, and without restricting the generality of the foregoing the Board may make orders and by means of such orders may,—

(a) designate or define any business, trade, work or undertaking or the part or parts thereof to which the order is applicable;

(b) designate or define the zone or zones within the Province in which any order or part thereof is applicable;

(c) classify employees and separately provide for any one or more classifications with respect to any matter over which the board has authority;

(d) establish a minimum wage for the prevailing weekly work period in the business of any employer or for any other regular working period which the Board may establish;

(e) establish the maximum number of hours of labour which may regularly be worked in the business of any employer with respect to any minimum wage established;

(f) establish minimum hourly rates of wages for overtime work, provided that such hourly rates shall not be less than one-fortieth of the weekly minimum wage;

(g) establish minimum hourly rates of wages for employees who regularly work less than forty hours per week, provided that such hourly rate shall not be less than one-fortieth of the weekly minimum wage;

(h) define any term used in any order;  

(i) establish a special method of payment for any classification of employees;

(j) specify when and under what conditions deductions may be made from the minimum wage established for time lost by employees through illness, holidays, absence from duty or for any other reason and also for special privileges or perquisites resulting from the nature of the work performed. 1937, c. 43, s. 4.
4. The maximum number of hours of labour with respect to which a minimum weekly wage is established shall not exceed.—

(a) 48 hours in a municipality having a population of more than 50,000;

(b) 50 hours in a municipality having a population of from 10,000 to 50,000;

(c) 54 hours in any other municipality, or in any locality which is not a municipality. 1937, c. 43, s. 5.

5. The Board may temporarily suspend or vary any order previously made to conform to special conditions in any business without making a new order and may also, by a new order, suspend, alter, revise and consolidate any order previously made by the Board or heretofore made by the Minimum Wage Board. 1937, c. 43, s. 6.

6. Every order of the Board shall be published in the Ontario Gazette and shall be effective from the date named in the order, or if no date is named, from the date of such publication. 1937, c. 43, s. 7.

7. Every employer who permits any employee to perform any work with respect to which a minimum wage has been established shall be deemed to have agreed to pay to such employee at least the minimum wage established and such minimum wage shall be paid to such employee only by cash or by cheque payable at par at the place where the employee performed such work. 1937, c. 43, s. 8.

8. It shall not be competent for an employee to agree to waive or to forego any provisions of this Act or of any order made by the Board, nor shall it be competent for any employer to enter into any agreement, arrangement or understanding with an employee or with any other person which results in the whole or any part of the wages paid to an employee or to the Board on behalf of an employee being returned to or accepted by the employer, either directly or indirectly, and every such agreement, arrangement and understanding shall be void. 1937, c. 43, s. 9.

9. Every employer who discharges or threatens to discharge or in any way discriminates against an employee who,—

(a) has testified or is about to testify in any proceeding or investigation had or taken under the provisions of this Act;
has given any information to the Board regarding the wages payable to such employee or his fellow-workers in any plant;

(c) has initiated or taken part in any proceeding had or taken for the purpose of assisting the Board to establish a minimum wage,

shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than $50. 1937, c. 43, s. 10.

10. Every employer affected by the provisions of an order Orders to which establishes minimum wages or maximum hours of be posted. labour shall post and keep posted a copy thereof in a conspicuous place where his employees are engaged in their duties. 1937, c. 43, s. 11.

11. Every employer shall keep complete, continuous and accurate records setting forth the names, addresses, rates of wages, hours worked, actual earnings of each employee and the age of each employee under eighteen years and such records shall be available at all reasonable times for inspection and examination by any member of the Board and by any inspector of the Department of Labour and every employer shall supply such information and make such returns from time to time as the Board may require, and every employer who fails to keep such records and supply such information and make such returns shall be guilty of an offence. 1937, c. 43, c. 12.

12. Every employer who makes or causes to be made false or misleading entries in any of the records which he is required to keep by this Act or the regulations or of any order of the Board or who supplies or causes to be supplied false or misleading information to the Board shall be guilty of an offence and shall incur a penalty upon summary conviction of not less than $100 and for a second and any subsequent offence may also be imprisoned for a period not exceeding six months. 1937, c. 43, s. 13.

13. Every employer who contravenes the provisions of any order with respect to wages or hours of work shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than $25 for each employee affected and in default of payment to imprisonment for a period not exceeding six months and for a second and any subsequent offence shall be liable to a fine of not less than $50 for each employee affected and in default of payment to imprisonment for a period not exceeding one year, and in every case upon
conviction shall be ordered to pay to the Board on behalf of
the employees affected the difference between the wages
actually paid and those established by the Board, and in
determining the amount of such arrears if the court finds
that the employer has not kept accurate records as required
by this Act the employees in question shall conclusively be
presumed to have been employed for the maximum number
of hours per week permitted and to be entitled to the full
weekly wage for the total period of their employment. 1937,
c. 43, s. 14.

14. Every employer who contravenes any provision of this
Act or of the regulations or of any order of the Board for which
no other penalty is provided herein shall be guilty of an
offence and shall be liable on summary conviction to a fine
of not less than $10. 1937, c. 43, s. 15.

15.—(1) The Board may approve an agreement in writing
between an employer and an employee providing for the
payment in instalments of any wages owing by the employer
under the provisions of any order.

(2) Where such agreement has been approved the failure
by the employer to carry out the terms of such agreement
shall be deemed to be a violation of the order affecting such
employer and employee as of the date of the breach of the
said agreement. 1937, c. 43 s. 16.

16. The provisions of this Act shall not apply to employees
engaged as servants in any private residence nor while engaged
in farming operations. 1937, c. 43, s. 17.