

Act No. 29, 1908.

An Act to provide a minimum wage for certain persons; to make better provision in certain cases for the payment of overtime and teamoney; to amend the Factories and Shops Act, 1896; and for purposes consequent thereon and incidental thereto. [24th December, 1908.]

MINIMUM WAGE

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act shall commence on the first day of January, one thousand nine hundred and nine, and may be cited as the "Minimum Wage Act, 1908." Commencement and short title.

2. In this Act,—

Definitions.

"Early-closing Acts" means the Early-closing Act, 1899, the Early-closing (Amendment) Act, 1900, and the Early-closing (Hairdressers'-shops) Act, 1906.

"Employer" means—

(a) any person for whom a workman or shop-assistant works, and includes any agent, manager, foreman, or other person acting, or apparently acting, in the control of any workman or shop-assistant;

(b) any person, company, or association employing persons in a factory, warehouse, or shop, or occupying any office, building, or place used as a factory, warehouse, or shop, and includes any agent, manager, foreman, or other person acting, or apparently acting, in the general management or control of a factory, warehouse, or shop.

"Factory" means factory as defined in the Factories and Shops Act, 1896.

"Shop-assistant" and "shop" mean respectively shop-assistant and shop as defined by the Early-closing Acts.

"Workman"

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“Workman” means—

- (a) any person employed at any handicraft, or in preparing or manufacturing any article for trade or sale, and includes any person employed in a bakehouse, or laundry, or in dye-works, but does not include any inmate of an institution of a charitable nature;
- (b) any person who is employed in a factory or who works in a factory at any kind of work whatever.

3. (1) A workman works overtime within the meaning of this Act when he works more than forty-eight hours in any week or after six o'clock in the evening on any working day.

(2) A shop-assistant works overtime within the meaning of this Act when he works more than one half-hour after the closing time of the shop in terms of the Early-closing Acts.

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5 Ed. VII No. 1975
(Vict.), s. 48 (1).

4. No workman or shop-assistant shall be employed unless in the receipt of a weekly wage of at least four shillings, irrespective of any amount earned as overtime.

Whosoever employs any such person in contravention of this section shall be liable to a penalty not exceeding two pounds.

Premium or bonus
in certain
occupations.
Ibid., s. 49.

5. Whosoever, either directly or indirectly, or by any pretence or device, requires or permits any person to pay or give, or receives from any person any consideration, premium, or bonus for the engaging or employing by him of any female in preparing, working at, dealing with, or manufacturing articles of clothing or wearing apparel for trade or sale shall be liable on conviction to a penalty not exceeding ten pounds; and the person who has paid or given such consideration, premium, or bonus may recover the same in any court of competent jurisdiction from the person who received the same.

Overtime and tea-money.

Minimum overtime
pay.

6. (1) Where a workman or shop-assistant, being a male under sixteen years of age or a female, works overtime, his employer shall, unless exempted under this section, pay such workman or shop-assistant not less than threepence for every hour or portion of an hour of the overtime worked.

Such overtime shall be paid for at intervals of not more than one month.

Payment for
overtime.

(2) Provided that where it is proved to the satisfaction of the Minister that, by reason of the customs or exigencies of any trade or employment, or for other reason, it is desirable to exempt such trade or employment with regard to males under sixteen years of age, either generally or in any particular locality, from the operation of this section, he may grant such exemption for such time as he thinks fit.

(3)

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(3) Provided also that payment for overtime may be claimed either under this section or under section thirty-seven of the Factories and Shops Act, 1896.

(4) If any employer fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds.

7. Section thirty-seven of the Factories and Shops Act, 1896, is amended by inserting after the words "at the rate of time and a half" the following words:—"Such payment shall be made at intervals of not more than one month."

8. Where any workman or shop-assistant, being a male under sixteen years of age or a female, is required by his employer to work overtime on any day, the employer shall on such day pay such workman or shop-assistant a sum of not less than sixpence as tea-money, and if he fails to carry out the provisions of this section he shall be liable to a penalty not exceeding two pounds.

Supplemental.

9. (1) Every employer shall—

- (a) keep a record, in the form prescribed, of overtime worked by such of his workmen or shop-assistants as are males under sixteen years of age or females;
- (b) produce such record and furnish extracts therefrom to an inspector appointed as hereinafter provided when called upon to do so.

(2) If any employer fails to carry out any of the provisions of this section, he shall be liable to a penalty not exceeding ten pounds.

10. (1) An inspector appointed under the Factories and Shops Act, 1896, may, in addition to the powers thereby conferred on him,—

- (a) at any reasonable hour, by day or night, enter any building, room, or place where he has reasonable cause to believe a workman or shop-assistant is employed;
- (b) examine any workman or shop-assistant, either alone or in the presence of any other person, with respect to any matter dealt with in this Act, and require him to sign a declaration of the truth of the matters in respect of which he is so examined;
- (c) require the production of and examine and take extracts from any record required by this Act to be kept.

(2) Any person who obstructs any such inspector in the exercise of his powers under this section, or who by word or act, or by concealing any person, prevents the examination as aforesaid of any workman or shop-assistant, shall be liable to a penalty not exceeding twenty pounds.

11. The Governor may at any time after the passing of this Act make regulations for carrying out its provisions and prescribing the forms

Crown Lands (Amendment).

Report of contraventions and breaches, and proceedings in respect thereof.

forms to be used in its administration, and may in such regulations impose any penalty not exceeding ten pounds for any breach of the same.

Recovery of penalties.

A copy of such regulations shall be laid before both Houses of Parliament without delay.

12. Contraventions or breaches of this Act, or of the regulations made thereunder, shall be reported to the Minister by inspectors, and no proceedings in respect thereof shall be instituted without the authority of the Minister.

13. The penalty for any such contravention or breach may be recovered before a stipendiary or police magistrate, or any two justices of the peace in petty sessions: Provided that proceedings for recovering any such penalty must be commenced within three months after such contravention or breach.

Savings.

Savings.

5 Ed. VII No. 1975
(Vict.), s. 48 (2).

14. This Act shall not apply where all the persons employed as workmen and shop-assistants are members of the employer's family, related in the first or second degree by blood or first degree by marriage to the employer.