

Act No. 55, 1900.

TRUCK.

An Act to regulate contracts made with respect to, and the payment of, Wages ; to prohibit such payment being made in goods or otherwise than in money ; and to regulate the service of legal process. [22nd November, 1900.]

BE it enacted by the Queen'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:—

Wages to be payable
in money.

1. (1) In every contract hereafter made with any workman, the wages of such workmen shall be made payable in money only, and not otherwise; and if by agreement, custom, or otherwise, a workman is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance, or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

No deductions for
interest.

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(2) If in any such contract the whole or any part of such wages shall be made payable in any manner other than in money, or shall provide for any deduction or charge as aforesaid in respect of any advance of the whole or part of the wages of such workman, such contract shall be and is hereby declared illegal and void in so far as any promise or consideration made or given by or arising out of such contract relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract which shall otherwise be and remain in force.

Contracts to be void if in contravention of this section.

2. No employer shall, directly or indirectly, by himself or his agent, impose as a condition, express or implied, in or for the employment of any workman, any terms as to the place where, or the manner in which, or the person with whom any wages or portion of wages paid to the workman are or is to be expended, or any terms requiring him to reside upon the lands of such employer; and no employer shall, by himself or his agent, dismiss any workman from his employment on account of the place where, or the manner in which, or the person with whom any wages or portion of wages paid by the employer to such workman were or was expended, or were or was not expended, or on account of the workman not residing upon the lands of the employer.

No contract to stipulate as to mode of spending wages.

3. The entire amount of the wages earned by or payable to any workman shall be actually paid to such workman in money, and not otherwise, at intervals of not more than fourteen days, if demanded, any contract to the contrary notwithstanding; and every payment made to any such workman by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, except as hereinafter mentioned, shall be and is hereby declared illegal and void; and every workman shall be entitled to recover from his employer in any Court of competent jurisdiction the whole or so much of the wages earned by such workman as shall not have been actually paid to him by his employer in money.

All wages to be paid in money.

4. In any action hereafter brought or commenced by any workman against his employer for the recovery of any sum of money due to such workman as his wages—

No set-off to be allowed for goods supplied to workman by employer.

- (1) the defendant shall not be allowed to make any set-off nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or received by the plaintiff as or on account of his wages, or by reason or in respect of any goods sold, delivered, or supplied at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest;

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(2) the defendant shall not be entitled to any set-off in respect of any goods supplied to the plaintiff by any person under any order or direction of the defendant or his agent.

Employer not to have action for goods supplied to workman.

5. No employer shall have or be entitled to maintain any action in any Court against any workman for or in respect of any goods sold, delivered, or supplied to any such workman by any such employer whilst in his employment as or on account of his wages, or for or in respect of any goods sold, delivered, or supplied to such workman at any shop, store, house, or premises kept by or belonging to such employer, or in the profits of which such employer shall have any share or interest.

No deduction on wages for sharpening or repairing tools, except by agreement.

6. No deduction shall be made from the wages of a workman for sharpening or repairing tools, except by agreement.

Payment of wages may be made by cheque.

7. Nothing contained in this Act shall be construed to prohibit the making of or render invalid any contract for the payment or any actual payment to any workman of the whole or any part of his wages in a cheque, or draft, payable to the bearer on demand drawn upon any bank carrying on business in New South Wales or in an order in writing for the payment of money to the bearer on demand, drawn upon any person, company, or association carrying on business in New South Wales, other than a retail shopkeeper or publican, if such workman shall freely consent to receive such cheque, draft, or order, but all payments so made with such consent shall, for the purposes of this Act, be as valid as if made in money: Provided that if wages shall be paid to any workman by a cheque, draft, or order in writing as aforesaid, and the same shall be dishonoured, such workman shall be entitled to recover from his employer, in addition to any wages due or payable to any such workman, such reasonable damages as he may have sustained in consequence of the dishonour of such cheque, draft, or order in writing, and such damages shall be recoverable in any Court of competent jurisdiction.

Remedies of workman.

Recover wages and reasonable damages.

Any court of competent jurisdiction

Service of legal process.

Delivering to manager or overseer at works.

8. Service of any legal process for, or incidental to, the recovery of wages or damages for non-payment thereof, or with respect to the dishonour of any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving such process with, or delivering the same to, the manager or overseer for the time being of the works at, or in respect of which, such wages shall have been earned. This section shall not affect any other mode of service allowed by law.

Penalties for breaches of Act. £10 £25, £50.

9. If the employer of any workman shall, by himself or the agency of any other person or persons, directly or indirectly enter into any contract or make any payment hereby declared to be illegal and void, wholly or in part, or if the employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Act, such employer or agent, as the case may be, shall be deemed guilty of an offence, and be liable to the following penalties:—For the first offence, a penalty

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not exceeding ten pounds; for the second offence, a penalty not exceeding twenty-five pounds; for any subsequent offence, a penalty not exceeding fifty pounds.

10. This Act shall not extend or apply—

- (1) where an employer or his agent supplies or contracts to supply to any workman any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be by any such workman employed in his trade, labour, or occupation;
- (2) where an employer or his agent supplies or contracts to supply to any workman who has engaged with him to fell bush, to ringbark trees, or to clear land of bush, the necessary outfit and means of support and materials or tools requisite for commencing his engagement, to any amount not exceeding in any case the amount of two months' wages to be earned by such workman in such engagement;
- (3) where such employer or his agent supplies or contracts to supply to any workman any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by any such workman in his trade, labour, or occupation;
- (4) where such employer or his agent allows such workman the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services;
- (5) to prevent any employer from advancing any money for the relief of such workman or his wife or family in sickness, or from advancing any money to any member of the family of such workman by his order, nor from deducting or contracting to deduct any such sum or sums of money as aforesaid from the wages of such workman;
- (6) to seamen or domestic servants or to persons employed in or in connection with agricultural or pastoral pursuits:

Cases to which this Act does not apply. Medicine, fuel, tools, implements, &c.

May supply tools, outfit to bushmen, to extent of two months' wages.

Provender for horses employed.

Use of tenement or house.

Advance in sickness.

Seamen or farmers or shearers.

Provided that no deduction or stoppage of wages shall exceed the amount of money advanced, or the value of any fuels, tools, implements, hay, corn, provender, victuals, drink, or materials supplied to such workman.

11. Any penalty imposed by this Act may be recovered summarily before a stipendiary or police magistrate, or any two or more justices of the peace in petty sessions.

Recovery of penalties.

12. In this Act, unless inconsistent with the context, the word—

Definitions.

“Contract” includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and workman are parties, or are assenting, or by which they are mutually bound to each other, or whereby either of them shall have endeavoured to impose an obligation on the other of them.

“Employer”

Coal-lumpers Baskets.

“ Employer ” includes any master, manager, foreman, clerk, or other person engaged in the hiring, employment, or superintendance of the service, work, or labour of any workman within the meaning of this Act.

“ Money ” means coin of the realm of Great Britain and Ireland current in New South Wales, and includes postal notes, Post Office orders, and the notes of any joint stock bank or association carrying on the business of a banker in New South Wales under the authority of any charter issued or granted by the Crown and actually in force, or under any Imperial Act or any Act of the Legislature of the said Colony now or hereafter in force.

“ Wages ” includes any money or thing had or contracted to be paid, delivered, or given, as a recompense, reward, or remuneration, for any service, work, or labour done or to be done, whether within a certain time, or to a certain amount, or for a time or amount uncertain.

“ Workman ” means any person in any manner employed in work of any kind or in manual labour, whether under the age of twenty-one years or above that age.

Commencement and
short title.

13. This Act shall come into operation on the first day of January, one thousand nine hundred and one, and may be cited as the “ Truck Act of 1900.”
