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CHAPTER 209

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ACT

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CHAPTER 209

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ACT

An Act to carry out certain conventions relating to the employment of women, young persons and children and to make additional provision relating to children.

[Act No. 20 of 1935 amended by Act No. 14 of 1939, Act No. 17 of 1952, Act No. (0) 12 of 1969, Act No. 3 of 1978, SRO 38 of 1980, Act No. 20 of 1987, Act No. 21 of 1988, Act No. 53 of 1992 and incorporating Act No. 8 of 1940 amended by Act No. 3 of 1978, Act No. 20 of 1987.]

[Date of commencement: *1st July, 1938.*]

[SRO 85 of 1938.]

Preliminary

1. Short title

This Act may be cited as the Employment of Women, Young Persons and Children Act,

2. Interpretation

In this Act, unless the context otherwise requires--

"**child**" means a person under the age of fourteen;

"**competent authority**" and "**appropriate authority**" mean the Governor-General;

"**industrial undertaking**" has, with respect to the employment of women, young persons and children, the meaning respectively assigned thereto in the Conventions set out in Parts I, II and III of the Schedule and includes, notwithstanding the provisions of Part I Article I (*d*), the carrying of coal by hand to or from ships;

"**ship**" means any sea-going ship or boat of any description which is registered in Saint Vincent and the Grenadines as a Saint Vincent and the Grenadines ship;

"**woman**" means a woman of the age of eighteen or upwards;

"**young person**" means a person who has ceased to be a child and who is under the age of eighteen.

PART I

Employment in Industrial Undertakings and on Ships

3. Restriction on employment of women, young persons and children in industrial undertakings and on ships

(1) No child shall be employed in any industrial undertaking:

Provided that in the application to Saint Vincent and the Grenadines of the Convention set out in Part I of the Schedule, Article 2 shall not apply to work done by children in recognised schools provided such work is approved and supervised by public authority.

(2) No young person or woman shall be employed at night in any industrial undertaking except to the extent to which, and in the circumstances in which, such employment is permitted under the Convention set out in Part II and Part III respectively of the Schedule.

(3) When young persons are employed in any industrial undertaking, a register of the young persons so employed, showing their dates of birth and the dates on which they enter and leave the service of their employer, shall be kept and shall, at all reasonable times, be open to inspection.

4. Restriction on the employment of children in ships

(1) No child shall be employed in any ship except to the extent and in the circumstances in which such employment is permitted under the Convention set out in Part IV of the Schedule.

(2) The master of a ship shall keep a register of young persons who are employed therein, and such register shall contain particulars of the dates of their births and the dates on which they become or cease to be members of the crew, and the register so kept shall, at all reasonable times, be open to inspection.

5. Offences and penalties

(1) Any person who employs a child or young person in any industrial undertaking in contravention of this Part is guilty of an offence and liable to a fine of one hundred dollars and, in the case of a second or subsequent offence, to a fine of two hundred and fifty dollars.

(2) Where the offence of taking a child into employment in contravention of this Part is in fact committed by an agent or workman of the employer, such agent or workman is liable to a penalty as if he were the employer.

(3) Where an employer is charged with any offence under this Part, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge. If after the commission of the offence has been proved, the court is satisfied that the employer had used due diligence to comply with the provisions of this Part and that the other person had committed the offence in question without the employer's knowledge, consent or connivance, the other person shall be convicted of the offence and the employer shall be exempt from any fine.

(4) When it is made to appear to the satisfaction of the Labour Commissioner at the time of discovering the offence—

- (a) that the employer had used all due diligence to enforce compliance with this Part;
- (b) by what person the offence had been committed; and
- (c) that the offence had been committed without the knowledge, consent or connivance of the employer and in contravention of his order,

then the Labour Commissioner shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

(5) If it appears to a magistrate or justice of the peace, on the complaint of a police officer, that there is reasonable cause to believe that a child is employed in contravention of this Part in any place, whether a building or not, such magistrate or justice may, by order under his hand, empower any police officer to enter such place at any reasonable time, within forty-eight hours from the date of the order, and examine such place and any person therein touching the employment of any child therein.

(6) Any person who refuses admission to a police officer authorised by an order under subsection (5), or who obstructs him in the discharge of his duty, is guilty of an offence and liable to a fine of one thousand dollars.

(7) Any person, being the employer of a young person, who fails to keep such a register so required to be kept by him, or who neglects to produce it, when required to produce it for inspection by the Labour Commissioner, is guilty of an offence and liable to a fine of one thousand dollars.

(8) Any person who employs a woman in contravention of this Part is guilty of an offence and liable to a fine of one thousand dollars.

(9) If any child is employed in any ship in contravention of this Part, the master of the ship is guilty of an offence and liable to a fine of one hundred dollars and, in the case of a second or subsequent offence, to a fine of two hundred and fifty dollars.

(10) Any master of a ship who fails to keep a register so required to be kept by him, or who refuses or neglects to produce it when required to produce it for inspection by the harbour master or a customs officer, is guilty of an offence and liable to a fine of one thousand dollars.

(11) Any parent of, or any person who is liable to maintain or has the actual custody of, a child or young person who, by wilful default or by habitually neglecting to exercise due care, has conduced to the commission of the offence of taking a child into employment in contravention of this Part, is guilty of an offence and liable to a fine of one hundred dollars and, in the case of a second or subsequent offence, to a fine of two hundred and fifty dollars.

(12) Where a child is taken into employment in any industrial undertaking, or in any ship, in contravention of this

Part on the production, by or with the privity of the parent, of a false or forged certificate, or on the false representation of his parent that the child is of an age at which such employment is not in contravention of this Part, that parent is guilty of an offence and liable to a fine of one hundred dollars.

(13) In this section as from the commencement of the Family Court Act, 1992, "**summary conviction**" or "**summarily convicted**" means a conviction before the Family Court.

[Subsection (13) inserted by Act No. 53 of 1992.]

6. Regulations

The Governor-General may make regulations—

- (a) defining the line of division which separates industry from commerce and agriculture;
- (b) in respect of the inspection and supervision of the employment in industrial undertakings of young persons and children;
- (c) in respect of the health, welfare and safety of women, young persons and children in any industrial undertaking;
- (d) in industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, reducing the night period for the non-employment of women to ten hours on sixty days of the year.

7. Saving

(1) The provisions of this Part are in addition to and not in derogation of any of the provisions of Part II of this Act nor of any other Act restricting the employment of women, young persons or children.

(2) Nothing in this Part shall apply to an industrial undertaking or ship in which only members of the same family are employed.

PART II

Employment of Children

8. Prohibition of employment of a child —

(1) Subject to subsection (2), a child shall not be employed.

(2) Nothing in subsection (1) applies—

- (a) to work done by any child in accordance with the provisions of Part I;
- (b) to the service rendered by any child to his parent or guardian in light agricultural or horticultural work on the family land or garden outside of school hours;
- (c) to the participation of a child, without fee or reward, in an entertainment the net proceeds of which are devoted to any charitable or educational purpose or to any purpose other than the private profit of the promoters.

9. Offences and penalties

(1) Any person who employs a child in contravention of section 8 is guilty of an offence and liable to a fine of five hundred dollars.

(2) Any parent or guardian of a child who has conduced to the commission of an offence under subsection (1) by wilful default or by habitually neglecting to exercise due care, is guilty of an offence and liable to a fine of five hundred dollars.

(3) Where the offence of taking a child into employment is committed by an agent or workman of the employer, such agent or workman is, in addition to the liability of the employer, guilty of an offence and liable to a fine of five hundred dollars.

(4) Where a child is taken into employment on the production, by or with the privity of the parent or guardian, of a false or forged certificate, or on the false representation of his parent or guardian that the child is of an age at which the employment is not an offence, the parent or guardian is guilty of an offence and liable to a fine of five hundred dollars.

10. Proof of age

On the hearing of any prosecution for an offence against this Part, the court may, if it thinks fit, determine the age of the child by his physical appearance alone without requiring any evidence as to his age.

SCHEDULE

[Section 3.]

PART

Minimum Age (Industry) Convention (Revised) 1937

ARTICLE I

For the purpose of this Convention, the term "**industrial undertaking**" includes particularly—

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed including ship-building, and the generation, transformation and transmission of electricity and motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork, or other work of construction, as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail, or inland waterway, including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

ARTICLE 2

Children under the age of fourteen years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed:

Provided that, except in the case of employment which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws or regulations may permit such children to be employed in undertakings in which only members of the employer's family are employed.

ARTICLE 3

The provisions of Article 2 shall not apply to work done by children in technical schools, provided that such work is approved and supervised by public authority.

ARTICLE 4

In order to facilitate the enforcement of the provisions of this Convention every employer in an industrial undertaking shall be required to keep a register of all persons under the age of sixteen years employed by him and of the dates of their births.

ARTICLE 5

In respect of employments which, by their nature or the circumstances in which they are carried on, are dangerous to the life, health or morals of the persons employed therein, national laws shall either—

- (a) prescribe a higher age or ages than fourteen years for the admission thereto of young persons or adolescents; or
- (b) empower an appropriate authority to prescribe a higher age or ages than fourteen years for the admission thereto of young persons or adolescents.

PART II

Convention Concerning the Night Work of Young Persons Employed in industry

ARTICLE 1

For the purpose of this Convention, the term "**industrial undertaking**" includes particularly—

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) industries, in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including ship-building, and the generation transformation and transmission of electricity or motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork, or other work of construction as well as the preparation for or laying the foundations of any such work or structure;
- (d) transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

ARTICLE 2

Young persons under eighteen years of age shall not be employed during the night in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed, except as hereinafter provided for.

Young persons over the age of sixteen may be employed during the night in the following industrial undertakings on work which, by reason of the nature of the process, is required to be carried on continuously day and night—

- (a) manufacture of iron and steel; process in which reverberatory or regenerative furnaces are used, and galvanising of sheet metal or wire (except the pickling process);
- (b) glass works;
- (c) manufacture of paper;

- (d) manufacture of raw sugar;
- (e) gold mining reduction work.

ARTICLE 3

For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

In coal and lignite mines work may be carried on in the interval between ten o'clock in the evening and five o'clock in the morning, if an interval of ordinarily fifteen hours, and in no case of less than thirteen hours, separates two periods of work.

Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may be substituted in the baking industry for the interval between ten o'clock in the evening and five o'clock in the morning.

ARTICLE 4

The provisions of Articles 2 and 3 shall not apply to the night work of young persons between the ages of sixteen and eighteen years in cases of emergencies which could not have been controlled or foreseen which are not of a periodical character, and which interfere with the normal working of the industrial undertaking.

ARTICLE 5

The prohibition of night work may be suspended by the Government for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

PART III

Convention Concerning the Night Work of Women Employed in Industry

ARTICLE 1

For the purpose of this Convention, the term "**industrial undertaking**" includes particularly—

- (a) mines, quarries, and other works for the extraction of minerals from the earth;
- (b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including ship-building and the generation, transformation and transmission of electricity or motive power of any kind;
- (c) construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork or other work of construction, as well as the preparation for, or laying the foundations of, any such work or structure.

The competent authority in each country shall define the line of division which separates industry from commerce and agriculture.

ARTICLE 2

For the purpose of this Convention, the term "night" signifies a period of at least eleven consecutive hours, including the interval between ten o'clock in the evening and five o'clock in the morning.

ARTICLE 3

Women, without distinction of age, shall not be employed during the night in any public or private industrial

undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed.

ARTICLE 4

Article 3 shall not apply—

- (a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;
- (b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration, when such night work is necessary to preserve the said materials from certain loss.

ARTICLE 5

In industrial undertakings which are influenced by the seasons and in all cases where exceptional circumstances demand it, the night period may be reduced to ten hours on sixty days of the year.

PART IV

Minimum Age (Sea) Convention (Revised), 1936

ARTICLE 1

For the purpose of this Convention, the term "vessel" includes all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned; it excludes ships of war.

ARTICLE 2

Children under the age of fourteen years shall not be employed or work on vessels other than vessels upon which only members of the same family are employed:

Provided that national laws or regulations may provide for the issue in respect of children of not less than fourteen years of age of certificates permitting them to be employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.

ARTICLE 3

The provisions of Article 2 shall not apply to work done by children on school ships or training ships, provided that such work is approved and supervised by public authority.

ARTICLE 4

In order to facilitate the enforcement of the provisions of this Convention, every shipmaster shall be required to keep a register of all persons under the age of sixteen years employed on board his vessel, or a list of them in the articles of agreement and of the dates of their births.

CHAPTER 209

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation