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ST CHRISTOPHER AND NEVIS

CHAPTER 18.10

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ACT

Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986

This edition contains a consolidation of the following laws:

(1) Employment of Women, Young Persons and Children Act

Act 5 of 1938 in force 1st February, 1939

Amended by Act 14 of 1966

Act 6 of 1976

Act 7 of 1976

Act 9 of 1986

Act 20 of 2002

(2) Employment of Children (Restriction) Act

Act 2 of 1966 in force 12th April, 1966

Amended by Act 19 of 2002

CAP 18.10

EMPLOYMENT OF WOMEN, YOUNG WOMEN AND CHILDREN ACT

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

1. Short title
2. Interpretation
3. Determination of industrial undertaking

PART II - PROHIBITION OF EMPLOYMENT OF CHILDREN

4. Prohibition of employment of children
5. Prohibition of employment of children on ships
6. Liability of parent or guardian

PART III - RESTRICTIONS ON EMPLOYMENT OF CHILDREN

7. Restriction on employment of children
8. Children attending technical schools
9. Enforcement of provisions
10. Penalty

PART IV - RESTRICTIONS ON EMPLOYMENT OF YOUNG PERSONS

11. Restrictions on employment at night of young persons
12. Registers to be kept
13. False certificate or representation as to age

PART V - RESTRICTIONS ON EMPLOYMENT OF WOMEN AT NIGHT

14. Restrictions on employment at night of women
15. Liability of agent or worker
16. Reduction of night period
17. Suspension of prohibition of night work

PART VI - GENERAL

18. Inspection of premises
19. Regulations
20. Penalty

EMPLOYMENT OF WOMEN, YOUNG WOMEN AND CHILDREN ACT

AN ACT to make provision for the regulation and control of employment of young women, young persons and children; and to make provision for related or incidental matters.

PART I — PRELIMINARY

1. Short title.

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

2. Interpretation.

In this Act, "child" means a person under the age of sixteen years;

[Substituted by Act 20/2002]

"guardian" includes *any* person who is liable to maintain or has the actual custody of a child or young person;

"industrial undertaking" includes

- (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 shipbuilding, 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;
and, in relation to the employment of young persons and children, also includes
- (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;

"Labour Inspector" means any person appointed as an Inspector under section 10 of the Labour Act, Cap. 18.18 and shall include the Labour Commissioner appointed under section 3 of that Act;

[Inserted by Act 14/3966]

"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;

"ship" means any seagoing ship or boat of any description registered in the State;

"woman" includes all persons of the female sex without distinction of age;

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

3. Determination of industrial undertaking

The Minister may, by Order, define the line of division which separates industry from commerce and agriculture, and declare any class of undertaking to be an industrial undertaking for the purposes of this Act.

PART II — PROHIBITION OF EMPLOYMENT OF CHILDREN

4. Prohibition of employment of children.

(1) No child shall 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, and any person who employs any child or permits him or her to work in contravention of this section commits an offence.

(2) The provisions of this section shall not apply to the exercise of manual labour by any child under order of detention in a reformatory or industrial school, or by any child receiving instruction in manual labour in any school, provided that such work is approved and supervised by public authority.

5. Prohibition of employment of children on ships.

No child shall be employed or work on any ship other than a ship upon which only members of the same family are employed, and any person who employs any child or permits him or her to work in contravention of the provisions of this section commits an offence.

6. Liability of parent or guardian.

Any parent or guardian of a child 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 Act commits an offence.

PART III — RESTRICTIONS ON EMPLOYMENT OF CHILDREN

7. Restriction on employment of children.

(1) Subject to the provisions of this Act and of any regulations made under the Act, no child shall be employed

- (a) so long as he or she is under twelve years: provided however that such child may be employed by his or her parents or guardian in domestic work at home or in light agricultural or horticultural work on the land or garden of the parent or guardian;
- (b) before the close of school hours on any day on which he or she is required to attend school;
- (c) before six o'clock in the morning or after eight o'clock in the evening on any day;
- (d) for more than two hours on any day on which he or she is required to attend school;
- (e) for more than two hours on any Sunday;

- (f) to lift, carry or move anything so heavy as to be likely to cause injury to him or her; or
- (g) in any occupation likely to be injurious to his or her life, limb, health or education, regard being had to his or her physical condition.

(2) The Minister may make regulations with respect to the employment of children, and any such regulations may distinguish between children of different ages and sexes and between different localities, trades, occupations and circumstances, and may contain provisions

- (a) prohibiting absolutely the employment of children in any specified occupation;
- (b) prescribing
 - (i) the age below which children are not to be employed;
 - (ii) the number of hours in each day, or in each week, for which, and the times of day at which, they may be employed;
 - (iii) the intervals to be allowed to them for meals and rest;
 - (iv) the holidays or half-holidays to be allowed them;
 - (v) any other conditions to be observed in relation to their employment;

so, however, that no such regulations shall modify the restrictions contained in the last foregoing subsection, and any restriction contained in any such regulations shall have effect in addition to the said restrictions.

(3) Regulations made under this section may prescribe for any contravention thereof or failure to comply therewith a fine not exceeding five hundred dollars on summary conviction.

[Amended by Act 9/1986]

(4) Nothing in paragraph (c) or paragraph (d) of Subsection (1), or in any regulations made under this section, shall prevent a child from taking part 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.

8. Children attending technical schools.

The provisions of this Act shall not apply to work done by children in technical schools.

9. Enforcement of provisions.

(1) The Labour Commissioner shall be responsible for the enforcement of the provisions of this Part, and he or she, or any person duly authorised by him or her, in writing, may prosecute, conduct or defend before a Magistrates Court any information, complaint or other proceeding arising under this Act.

(2) The Labour Commissioner, or any person duly authorised by him or her, in writing, may at all reasonable times enter upon any premises or place where he or she has reasonable cause to believe that any child is being employed and may there make inquiries to ascertain whether the provisions of this Act or of any Regulations made thereunder are being complied with.

(3) Any person who refuses admission to or wilfully obstructs the Labour Commissioner or any person duly authorised by him or her, in writing while in the execution of his or her duties under subsection (2) of this section commits an offence and is liable to the penalties prescribed by section 10 of this Act.

10. Penalty.

Any person who contravenes the provisions of this Part shall be liable, on summary conviction, to a fine not exceeding five hundred dollars, recoverable by warrant of distress as provided by section 104 of the Magistrate's Code of Procedure Act, Cap. 3:17.

[This Part was originally Act 2/1966]

PART IV — RESTRICTIONS ON EMPLOYMENT OF YOUNG PERSONS

11. Restrictions on employment at night of young persons.

(1) Except as hereinafter provided, no young person shall be employed or work 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, and any person who employs any young person or permits him or her to work in contravention of the provisions of this section shall be guilty of an offence.

(2) Young persons over the age of sixteen years may be employed or work 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, that is to say,

- (a) manufacture of raw sugar;
- (b) any other undertaking which may be declared to come under the exception created by this subsection by order of the Minister.

(3) The provisions of subsection (1) shall not apply to the night work of young persons over the age of sixteen 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.

12. Registers to be kept.

(1) Every employer in an industrial undertaking shall keep a register of all persons under the age of sixteen years employed by him or her, and every shipmaster shall keep a register, or a list in the articles of agreement, of all such persons employed on board his or her ship.

(2) The register or list, as the case may be, shall contain particulars of the names, addresses, and dates of birth of all such persons, and of the dates on which they enter and leave such employment, and shall on request at any reasonable time be produced for inspection by any Labour Inspector.

[Amended by Act 14/200]

(3) Any employer or shipmaster who fails to comply with or who acts in contravention of the provisions of this

section commits an offence, and shall be liable, on summary conviction, to a penalty not exceeding four hundred and fifty dollars.

13. False certificate or representation as to age.

Where a child or young person is taken into employment in contravention of this Act 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 or her parent or guardian that such child or young person is of an age at which such employment is not in contravention of this Act, that parent or guardian commits an offence.

PART V — RESTRICTIONS ON EMPLOYMENT OF WOMEN AT NIGHT

14. Restrictions on employment at night of women.

(1) Except as hereinafter provided, no woman shall be employed or work 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, and any person who employs any woman or permits her to work in contravention of the provisions of this section commits an offence.

(2) The provisions of this section shall not apply

- (a) to women holding responsible positions of management who are not ordinarily engaged in manual work;
- (b) 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;
- (c) 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 such materials from certain loss.

15. Liability of agent or worker.

(1) Where the offence of taking a woman or young person or child, as the case may be, into employment in contravention of this Act is committed by an agent or worker of the employer, such agent or worker shall be liable to a penalty as if he or she were the employer.

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

16. Reduction of night period.

In industrial undertakings which are influenced by the seasons of the year, and in all cases where exceptional circumstances demand it, the Minister may, by Notice, declare that the prohibition of the night work of women shall extend to a period of ten hours only instead of eleven hours on sixty days of the year.

[Amended by Act 6/1976]

17. Suspension of prohibition of night work.

When in case of serious emergency the public interest demands it, the Minister may, by Notice, suspend the prohibition of night work in relation to young persons over sixteen years as respects all industrial undertakings for such period as he or she may deem necessary.

[Amended by Act 6/1976]

PART VI — GENERAL

18. Inspection of premises.

(1) Any Labour Inspector shall have power to enter any premises or place wherein any industrial undertaking is carried on, or to board any ship, for the purpose of ascertaining whether any woman, young person, or child is employed in contravention of this Act, and to inspect such premises, place or ship, and examine any person therein touching the employment of any woman, young person or child.

[Amended by Act 14/1966]

(2) Any person who assaults, hinders or obstructs any Labour Inspector in the execution of any duty under this Act shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding four hundred and fifty dollars.

[Amended by Acts 7/1976 and 9/1986]

19. Regulations.

The Minister may make regulations with respect to

- (a) the cleanliness, freedom from effluvia, overcrowding, ventilation and general sanitary conditions of any premises or place wherein women, young persons or children are employed;
- (b) the maximum hours of employment of women, young persons or children and the times allowed for meals;
- (c) generally for the better carrying out of the provisions of this Act.

/Amended by Act 6/1976]

20. Penalty.

Any person who is found guilty of an offence against this Act or any regulations made thereunder for which no penalty is expressly provided shall be liable, on summary conviction, to a penalty not exceeding one hundred and fifty dollars, and in the case of a second or subsequent offence to a penalty not exceeding three hundred dollars.

[Amended by Acts 7/1976 and 9/1986]