

THE MINIMUM WAGES BILL 2015

MEMORANDUM

1. Object of the bill

The object of this bill is to provide for the determination of a minimum wage based on the different sectors of the economy.

2. Defects in the existing law

The bill further provides for two different minimum wages determination mechanism, being, public and private. Under Public wage determination, the minimum wages are determined by the board and apply to a given sector while in private wage determination mechanism; parties agree contractually to a minimum wage applicable to them as long as that wage is reviewed every 2 years and is not lower than the minimum wage as determined for that sector if any.

Uganda currently has no minimum wage although attempts have been made in the past to establish one without much success. The major defect in the current minimum wage determination mechanism as provided for under the Minimum Wages Advisory Board Act doesn't provide for an employee-employer led minimum Wages determination, a sectoral based minimum wage determination and application and is in dire need of amendment since it has been in existence since 1957; The decision making mechanism existing in the current legislation is cumbersome, non representative and doesn't address the uniqueness of individual sectors of the Economy while coming up with a Minimum Wage. In order to curb the exploitation of workers and employees in the private sector, there is need to have

a comprehensive and updated legislation setting out the mechanism for the establishment of a minimum Wage and conditions of employment which take into account the uniqueness of the each sector of the Economy, a mechanism that which allows employers and employees to be represented and heard during the process leading to the establishment of Minimum Wages as well as prescribing heavy penalties for non compliance;

3. Provisions of the Bill

The bill consists of four parts.

4. Part I-Preliminary

Part I of the bill provides for preliminary matters including the commencement, application of the Act and interpretation.

5. Part II-Determination of Minimum Wage

Part II of the bill deals with the establishment of minimum wages boards by the minister, mechanisms for determining minimum wages for each sector, duties , powers and functions of the board and the procedures for determining the minimum wage.

Clause 4 provides for the establishment of minimum wages boards by the minister whenever it is desirable to do so. The composition of the board is four (4) persons drawn from the Ministry of Gender, Labour and Social Development, Ministry of Finance, Planning and Economic Development, Central Organisation of free trade unions, National Organisation of Trade Unions and the Federation of Uganda's In choosing the board, the minister must ensure that there is such a balance as the Minister considers appropriate between members with knowledge or experience of, or interest in, trade unions or matters relating to workers generally; members with knowledge or experience of, or interest in, employers' associations or matters relating to employers generally; and members with other relevant knowledge or experience. The minister is also required to appoint four (4) additional members (assessors) who shall be representatives from Bank of Uganda, the National Planning Authority, the Uganda National Bureau of Statistics and any other person with expert knowledge of any of the matters with which the board's inquiry is

concerned in the particular sector. The assessors are required to make to make recommendations to the board on any decision to be made it but shall not vote.

Clause 5 of the bill provides for functions of the board which shall be to recommend minimum rates of wages for all classes of workers, recommending terms of employment in the various sectors of the economy, carry out periodical revision of minimum wages fixed by the board and advising the minister on policy issues concerning employee working conditions and terms of employment.

Clause 6 of the bill deals with the duration and terms of appointment of wages board members. The clause requires that members appointed to the wages board, except for members drawn from the Ministry of Gender, Labour and Social Development, Ministry of Finance, Planning and Economic Development, Bank of Uganda, the National Planning Authority and Uganda Bureau of Statistics, shall hold office for 2 years but be reappointed for one more term only. It further requires that member of the board may resign their membership by giving written notice to the Minister. A person who ceases to be a member of the board is eligible for re-appointment to the board except where the member has been removed from the Minister. The minister is granted power to remove from office a member who has become bankrupt, has made an arrangement with his creditors, has had his estate sequestrated, has granted a trust deed for his creditors or has made a composition contract with his creditors, has been absent from two or more consecutive meetings of the Board otherwise than for a reason approved by them, or is in the opinion of the Minister unable or unfit to perform his duties as member of the Board. Members of the board are not paid a salary but receive such allowances in respect of travel or other expenses properly incurred by them in respect of performance of their duties.

Clause 7 of the bill deals with proceedings of the board and specifically deals with arrangements relating to their meetings. The clause allows the board to determine and adopt the procedure to be adopted in it meeting. Decisions of the board are to be reached by voting and the chairperson of any meeting of a board shall have an

original vote and, when the votes are equally divided, he or she may cast a vote in addition to his or her original vote. The minister is required to make rules regarding meetings and procedure of the board, including quorum. The clause further requires that the validity of the board's proceedings shall not be affected by any vacancy among the board's members, whether occurring by reason of death, resignation or otherwise; the appointment of a member at any time to fill such a vacancy; or any defect in the appointment of a member.

Clause 8 of the bill deals with general provisions applicable to the minimum wages board. The minister is required to notify the appointment of the Board in a newspaper of wide coverage and the notice is required to include a specific requirement to set a minimum wage for a given sector, the names of persons appointed to the board and a requirement for all concerned to file with the Board all the necessary documents which might help the Board make a decision on the matter. The board is required to seat within 7 days after being constituted by the minister and inquire into the wages and conditions of service of those employees coming within its terms of reference and after submit recommendations to the Minister. The recommendations may specify the minimum wage or conditions of employment which, in the opinion of the board, should be observed in regard to all or any of those employees; and thereafter any such recommendations shall be deemed to be a wages regulation proposal. Employees and employers from the sector concerned or any other interested parties are free to make presentations to the board relating to if proposed by employers; the day to day work of the employees, the total income earned by the employer, their total liabilities and future forecasts of the profitability of their business or undertaking or any other information that might be of value during the board's deliberations or if proposed by the employees; the total number of hours they wish to work, the nature of the day to day duties in the sector, the supply of labour to the sector and any other matter that they wish to bring to the attention of the Board, and shall conclude with a proposal of the minimum wage they are willing to accept. The Minimum wages board, in reaching its conclusion on the minimum wage, may consider any matter but shall take special consideration of the peculiarities of that particular sector, the profitability of the sector,

the terms of service of the their employment, needs of a worker and his family, general level of wages in the country, cost of living and relative living standards of generally accepted in the sector, level of productivity and of skill of works, capacity of the employers to pay wages, state of the National economy, variations in the Consumer Price Index and any other matter that the Board considers appropriate in the circumstance. The clause further requires that the Board submits a wages regulation proposal report to the Minister within twenty one days (21) after opening of public presentations and within three days after making it.

Clause 9 of the bill deals with duties and powers of the minimum wages board and specifically requires that the board recommends the minimum rates of wages, the minimum overtime rates of wages, the minimum holidays with pay to be paid to employees or persons undertaking internship in relation to an hour, day, week, month or other period; the normal hours of work on any day or in any week and the conditions of work to be observed either generally or for any particular work by the employers in respect of all or any of such employees. The board is further endowed with the power to recommend the maximum sum which an employer may deduct from the minimum wage to represent the cost of food or housing or both food and housing provided by an employer, power to recommend that a wage should be subject to periodical increments, the board shall have power to recommend the extra rate of remuneration by way of allowance or recommend minimum rates for piece work whether undertaken by an employee on the premises of any employer or by an outworker.

Clause 10 of the bill provides for Reports of the board which are required to be sent to the minister who may approve the report or return them to the board with such comments on them as he or she thinks desirable. Where the board receives the report from the minister, it is required to reconsider the proposals in light of the Minister's comments and resubmit them to the Minister either with or without amendments within twenty One (21) days from the date of

resubmission. Where the Minister agrees with the wages report, he or she shall immediately Gazette and publish the Minimum wage applicable to that sector and ensure compliance with the set Minimum Wage. The employee is required to comply with the Minimum Wage as gazette by the Minister within thirty days (30) from the date of publication and if any employer fails to comply with the regulation issued by the minister and pays a wage which is less than the Minimum Wages, he or she shall be on liable to a fine not exceeding five hundred currency points for each employee and shall refund the employees all monies they would have earned if the provisions of this Act had been complied with.

Clause 11 of the bill deals with dissolution of minimum wages board and provides that the minimum wages board may be dissolved at anytime by the minister by notice in the gazette. However, the resolution shall be without prejudice to any acts or recommendations made by the board prior to the dissolution.

6. Part III- Contractual and Court determined Minimum Wages

Clause 12 deals with agreements relating to remuneration and conditions of work of mutually agreed to between employees and employers. The clause requires that parties are free to agree to the minimum wage and any conditions of work applicable to them by way of agreement and thereafter to forward the agreement to the Minister who makes a statutory order regulating remuneration or conditions of employment in the terms of the agreement or award and publish it in the gazette. The agreement or court order acts as a wage regulation order made by the wages board and is valid for 2 years and shall not be lower than the statutory minimum wages.

Clause 13 of the bill deals with ministerial approval and requires that parties to a minimum wage agreement or arbitral award shall send a copy to the minister for his or her approval. The minister may approve the agreement or send it back to the parties to amendments if any. Upon approval, the agreement will serve a minimum wage regulation.

Clause 14 deals with failure by parties to agree a minimum wage applicable to their circumstance and requires that the matter is referred to the industrial court for determination. The minister may refer the matter to the wages board to determine the minimum wage applicable to the parties or declare a wage regulation passed by the wages board as the applicable wage.

Clause 15 of the bill deals with penalties for failing to pay a minimum wage or comply with conditions of employment and imposes a penalty of five hundred currency points.

7. PART IV-MISCILLANEOUS

Clause 16 of the bill requires employees to keep all records in English language for a period of two years and the employer shall exhibit such notices as may be prescribed for the purpose of informing the employees of any wages regulation proposals or wages regulation order affecting them.

Clause 17 of the bill deals with powers of authorised officers and allows them to require the production of wages sheets or other records of wages kept by an employer and to inspect and examine those sheets or records and copy any material part of them, to require any person giving out work and any outworker to give any information which it is in his or her power to give with respect to the names and addresses of the persons to whom the work is given out or from whom the work is received, enter any premises at which an employer to whom a wages regulation order applies carries on his or her business, to inspect and copy any material part of any list of outworkers kept by an employer or persons giving out work to outworkers and to institute criminal and civil proceedings before the industrial court in respect of a contravention or an alleged contravention of this Act or regulations.

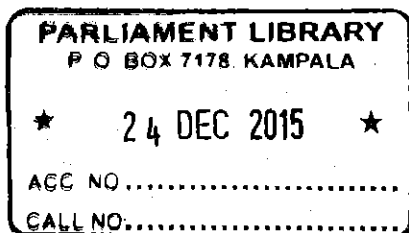
Clause 18 of the bill deals with obstructing an authorised officer from executing duties imposed on him or her under the Act and imposes a penalty of twenty five currency points for anybody who interferes in the exercise of any power conferred the Act or anybody who refuses to comply with any requirement of such an officer made in the exercise of any such power.

Clause 19 of the bill imposes a penalty on any person who makes or causes to be made or knowingly allows to be made any entry in a record required by the Act to be kept by employers, which he or she knows to be false in a material particular, or, for any purpose connected with the Act, produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he or she knows to be false in a material particular to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding 12 months or to both.

Clause 20 of the bill deals with void agreements and declares void any agreement which is in conflict with the provisions of the Act, to the extent of such conflict.

Clause 21 of the bill allows the minister to make rules prescribing anything that is to be done under the provisions of the Act and generally for better carrying into effect the provisions of the Act.

HON. ARINAITWE RWAKAJARA (MP),
Worker's Representative.



THE MINIMUM WAGES BILL 2015**ARRANGEMENT OF CLAUSES***Clause***PART I—PRELIMINARY**

1. Commencement.
2. Application.
3. Interpretation.

PART II—DETERMINATION OF MINIMUM WAGE

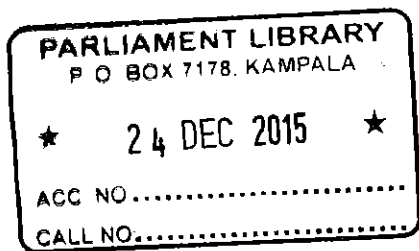
4. Establishment of minimum wages board.
5. Functions of the minimum wages board.
6. Duration and terms of appointment.
7. Proceedings of the board.
8. General provisions applicable to the minimum wages boards.
9. Duties and powers of the minimum wages board.
10. Report of the board.
11. Dissolution of the minimum wages board.

**PART III—CONTRACTUAL AND
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12. Establishment of a contractual minimum wage.
13. Ministerial Approval.
14. Failure to agree a basic agreed minimum wage.
15. Penalty for failing to pay minimum wage or comply with conditions of employment.

PART IV—MISCELLANEOUS

16. Records and notices.
17. Powers of authorised officers.
18. Penalty for obstruction of authorised officers.
19. Penalty for false entries or records, etc
20. Void agreement.
21. Rules.



A Bill for an Act

ENTITLED

THE MINIMUM WAGES ACT 2015

An Act to amend, repeal and reform the law relating to the establishment of a minimum wages board, and for the regulation of the remuneration and conditions of employment of employees and to make provision for other related matters.

BE IT ENACTED by Parliament s follows:

PART I—PRELIMINARY

1. Commencement.

This Act shall come into force on the date appointed by the Minister by statutory instrument.

2. Application.

This Act shall not apply to members of the Uganda People's Defence Forces, members of any police force established by the Constitution or an Act of Parliament, public officers or persons otherwise employed by the Government.

3. Interpretation.

(1) In this Act, unless the context otherwise requires—

- (a) "Authorised officer" means a labour officer or any person appointed by the Minister to carry out the provisions of this Act;
- (b) "Board" means a minimum Wage Board established under section 4(1);
- (c) "Employee" means a person who has entered into a contract of service, an apprentice or learner's contract including without limitation, a person who is employed by or on behalf of a local authority and government parastatals, but excludes all persons who are employed by the Government of Uganda, Uganda Police Force and Uganda People's Defence Forces;
- (d) "Employer" means any person who has entered into a contract of service to employ any other person, or offered work to that other person, or has worked or ordinarily works, and includes the heirs, successors, assignees, and transferors, of any person or group of persons for whom an employee works, has worked, or ordinarily works;
- (e) "Labour officer" means a commissioner or district labour officer;
- (f) "Member of the board" means a member appointed by the minister under section 4(1) of this Act;
- (g) "Minister" means minister responsible for Gender, Labour and Social development;
- (h) "Outworker" means an employee to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired or adapted for sale in his or her own home or in other premises not in the control or management of the person who gave out the articles or materials;

- (h) "Statutory minimum remuneration" means any remuneration regulation order gazetted by the minister;
- (i) "Wages regulation order" includes any wages order made by the Minister
- (j) "Wages regulation proposal" includes any wage recommendations made by the Board.

(2) Whenever anything is required to be published under this Act, it shall be published in the Gazette, in two newspapers circulating in Uganda and in such other manner as the Minister shall consider necessary to bring it to the attention of the persons concerned, unless it is specifically provided that it shall be published in the Gazette in which case it shall not be necessary to publish it in any other manner.

PART II—DETERMINATION OF MINIMUM WAGE

4. Establishment of a Minimum Wages Board.

(1) The Minister shall appoint a minimum wage board whenever he or she considers that it may be desirable to fix a minimum wage for a given sector and to determine other conditions of employment in that sector.

(2) The board shall consist of four (4) persons who shall as far as possible be drawn from the Ministry of Gender, Labour and Social Development, Ministry of Finance, Planning and Economic Development, Central Organisation of free trade unions, National Organisation of Trade Unions and the Federation of Uganda's Employers.

(3) The board shall be chaired by a chairperson who shall be appointed by the Minister from amongst members of the Board.

(4) The Minister shall appoint four (4) additional persons to act as assessors.

(5) In appointing members to the board, the Minister shall take into consideration a person's—

- (a) knowledge or experience of, or interest in, trade unions or matters relating to workers generally;
- (b) knowledge or experience of, or interest in, employers' associations or matters relating to employers generally; and
- (c) Relevant knowledge or experience in relation to the inquiry.

(6) The assessors appointed under subsection (4) of this section shall be representatives from Bank of Uganda, the National Planning Authority, the Uganda National Bureau of Statistics and any other person with expert knowledge of any of the matters with which the board's inquiry is concerned in the particular sector.

(7) Before making any appointment under sub section (2) and (4), the Minister may consult any organization or person appearing to him or her to represent employers or, as the case may be, employees, connected with the area or occupation with which the inquiry is concerned.

(8) An assessor shall not vote on any matter that requires voting but shall make a recommendation to the board on any matter before the board and his or her opinion shall not bind the board.

5. Functions of the minimum wages board.

The board shall be responsible for—

- (a) recommending minimum wages for all classes of workers;
- (b) recommending terms of employment in that sector;
- (c) carrying out periodical revision of minimum wages fixed by the board as directed by the Minister;
- (d) advising the Minister on policy issues concerning employee working conditions and terms of employment; and

- (e) carrying out any other function incidental or consequential to the board's functions.

6. Duration and terms of appointment.

(1) A member of the board shall hold and vacate office in accordance with his or her terms of appointment and subject to the following provisions—

- (a) except for members drawn from the Ministry of Gender, Labour and Social Development, Ministry of Finance, Planning and Economic Development, Bank of Uganda, the National Planning Authority and Uganda Bureau of Statistics all other members of the board shall hold office for a period of two consecutive years and shall be eligible for reappointment for one more term only.
- (b) a member of the board may resign his or her membership by giving at least thirty days written notice to the Minister.

(2) A member of the board may be removed from office by the Minister only for—

- (a) inability to perform the functions of a board member;
- (b) misconduct, misbehaviour or conduct unbecoming of the member of the board; or
- (c) incompetence.

(3) The Minister may pay a member of the board such allowances in respect of travel or other expenses properly incurred by them in the performance of their duties.

7. Proceedings of the board.

(1) The quorum of the board and any other matter relating to the meetings of the board shall be determined by the board from time to time.

(2) The chairperson of a meeting of the board shall have an original vote and when the votes are equally divided, the chairperson shall have a casting in addition to his or her original vote.

(3) The Minister may make rules to guide meetings and procedures of the board, including rules as to quorum; but subject to this Act and to other rules so made, a board may regulate its procedure in such a manner as it thinks fit.

(4) The validity of proceedings of the board shall not be affected by—

- (a) any vacancy among the members, whether occurring by reason of death, resignation or otherwise;
- (b) the appointment of a member at any time to fill such a vacancy; or
- (c) any defect in the appointment of a member.

(5) The Minister may appoint a secretary and such other officers as he or she thinks fit to a board.

(6) The secretary and other officers shall not be members of the board.

8. General provisions applicable to the minimum wage board.

(1) The board shall be required to call the first meeting within seven days of receiving the appointment instrument.

(2) The Minister shall notify the appointment of the Board in a newspaper of wide coverage and the notice shall include—

- (a) a specific requirement to set a minimum wage for a given sector;
- (b) the names of persons appointed to the board;

- (c) a requirement for all concerned to file with the Board all the necessary documents which might help the Board make a decision on the matter.

(3) The board shall thereupon inquire into the wages and conditions of service of those employees coming within its terms of reference and after complying with this Act shall submit recommendations to the Minister, which may specify the minimum wage or conditions of employment which, in the opinion of the board, should be observed in regard to all or any of those employees; and thereafter any such recommendations shall be deemed to be a wages regulation proposal.

(4) Nothing shall prevent employees, employers from the sector concerned or any other interested parties from making presentations to the board.

(5) The presentations envisaged under 6(4) above shall relate to—

- (a) if proposed by employers; the day to day work of the employees, the total income earned by the employer, their total liabilities and future forecasts of the profitability of their business or undertaking or any other information that might be of value during the board's deliberations;
- (b) if proposed by the employees; the total number of hours they wish to work, the nature of the day to day duties in the sector, the supply of labour to the sector and any other matter that they wish to bring to the attention of the Board, and shall conclude with a proposal of the minimum wage they are willing to accept.

(6) All persons summoned to attend and give evidence, or to produce books, plans or documents at any sitting of a board shall be bound to obey the summons served upon them as fully in all respects as witnesses are bound to obey a summons issued from the High Court

(7) The board in making its recommendations on the minimum wage and other conditions of employment shall take into consideration the following—

- (a) state of the economy and general conditions of living;
- (b) the peculiarity of that sector;
- (c) the profitability of the sector;
- (d) skill of workers and level of productivity;
- (e) the terms of service of the their employment;
- (f) needs of a worker and his family;
- (g) general level of wages in the country;
- (h) cost of living and relative living standards of generally accepted in the sector;
- (i) level of productivity and of skill of works;
- (j) state of the National economy;
- (k) variations in the Consumer Price Index;
- (l) any other matter that the board considers appropriate in the circumstance.

9. Duties and powers of the minimum wage board.

(1) The board appointed under section 3 of this Act shall have power to recommend—

- (a) the minimum wages to be paid to employees in relation to an hour, day, week, month or other period;
- (b) the normal hours of work on any day or in any week;
- (c) the conditions of work to be observed either generally or for any particular work by the employers in respect of all or any of such employees,

- (d) the minimum rates of wages for any such employees who are learning an occupation,
- (e) the minimum holidays with pay to be allowed by employers to employees,
- (f) that a wage should be subject to periodical increments and the percentage of the increment,
- (g) the extra rate of remuneration by way of allowance which an employee should receive where the employee is required to use his or her own tools in the course of his or her employment.

10. Report of the board.

(1) The board shall, having concluded its work, forward to the Minister a report containing its recommendations.

(2) The Minister shall, on receipt of the report approve the report and where the Minister does not approve the report, the he or she shall return the report to the board with his or her reasons for not approving the report.

(3) The board shall, on receipt of the report from the Minister under subsection (2) of this section reconsider the reasons for objection of the Minister's approval and shall resubmit the report to the Minister highlighting their position on the objections raised by the Minister under subsection (2) of this section.

(4) The Minister shall on receipt of the report from the board under subsection (3), present the report to Cabinet within fifteen working days and Cabinet shall consider and approve the report.

11. Dissolution of the Minimum Wages Board.

The Minister shall, upon cabinet approval of the report in section 10 (4), dissolve Minimum Wages Board.

PART III—CONTRACTUAL AND COURT DETERMINED MINIMUM WAGE

12 Establishment of a Contractual minimum wage.

(1) Employees in any employment or sector in which a minimum wage is not prescribed may initiate negotiations with their employer or employees to establish a minimum wage applicable to the various categories of employees in employment or in the sector.

(2) The employer shall ensure that all workers are represented during the Minimum wage negotiations.

(3) Nothing shall prevent workers from engaging in collective bargaining or authorizing a third party to undertake negotiations on their behalf during negotiations but the employer is expressly prohibited from engaging in any negotiations with individual workers.

(4) Subject to any law to the contrary, the employer shall at the commencement of negotiations provide employees, persons or entities authorized by the employees to negotiate on their behalf, all documents relating to the employees, the day to day work of the employees, the total income earned by the employer, their total liabilities and future forecasts of the profitability of their business or undertaking or any other information that might be of value help during the negotiations.

(5) Where the parties to the negotiations agree to the minimum wage to be paid at each sub division of labour, the employer shall—

- (a) announce immediately to the employees in a manner that ensures that all the employees have knowledge of the basic agreed minimum wage;
- (b) immediately pay the basic agreed minimum wage within 30 days of the ministerial approval under subsection 3(3);

(c) send a copy of the agreed minimum wage to—

(i) the minister; and

(ii) Uganda National Bureau of Statistics, who shall compile, analyse, maintain a depository and publish a report on the data collected.

(6) For avoidance of doubt, negotiations must be completed within three (3) month after their commencement unless the parties agree otherwise.

(7) The party's agreement or court order issued under section 14 shall state the agreed minimum wages which shall be a single hourly, weekly or monthly rate.

(8) At any time after the determination of a minimum wage applicable to employees or to any sector by court or through negotiation a minimum wage regulation is issued by the Minister for that sector, the applicable minimum wage for the sector shall be the higher of the prescribed minimum wage by the Minister or the negotiated or court determined minimum wage payable.

(9) Notwithstanding any law to the contrary, the remuneration agreed upon by the parties in their agreement or Court award shall be valid for only three (3) years but the parties may agree for the wage to apply for such longer period not exceeding five (5) years.

(10) Nothing shall prevent the employer from paying the employee(s) a higher rate than the minimum wage.

13. Ministerial Approval.

(1) Upon agreement between the employer and employees, the employer shall send a copy of the agreement detailing the agreed Minimum Wage as well as the agreed conditions of employment within Five (5) working days of the agreement and the Minister shall make such further inquiries as he or she considers necessary and may agree to the proposal with or without amendments having regard to the representations.

(2) Where the wages agreement has been submitted to the Minister by the employer, the Minister may, if he or she thinks fit, refer the proposals back to the employer; and the employer shall thereupon reconsider them having regard to any observations made by the Minister, and the employer may resubmit the proposed agreement to the Minister with amendment or apply the regulated wages as determined by the Board.

(3) When the proposed wages agreement is resubmitted to the Minister under subsection (2), the Minister shall either give effect to it by order duly published from such date as may be specified in the order or reject the proposed wage agreement.

(4) When the Minister rejects the proposed wages agreement under subsection 3, the employer shall either comply with the Ministers proposals or apply the regulated wages as determined by the Board.

(5) The employer shall pay the contracted wage within 30 days of obtaining Ministerial approval as provided for under this Act.

14. Failure to agree a basic agreed minimum wage.

(1) Where parties to a minimum wage negotiation fail to reach an amicable agreement on the minimum wage to be paid within six (6) months from the date of the request in section 12, any interested party may refer the matter to the Industrial Court established under the Labour Disputes (Arbitration and Settlement) Act, 2006 Cap 224 which shall determine the minimum wage applicable.

(2) The negotiating parties shall submit all documents, other items or any other matter that were available to them during the negotiations to Court.

(3) Where Court makes an order under subsection (8), the registrar shall send a certified copy to the Minister, who shall gazette the same as a wage regulation applicable to the employees.

15. Penalty for failing to pay minimum wage or comply with conditions of employment.

(1) If a contract between an employee to whom a wages regulation order applies and his or her employer provides for the payment of less remuneration than the statutory minimum remuneration, or does not provide for the conditions of employment prescribed in a wages regulation order, it shall have effect as if for that less remuneration there were substituted the statutory minimum remuneration, and as if there were inserted the prescribed conditions of employment in the wages regulation order.

(2) If an employer pays an employee to whom a wages regulation order applies remuneration less than the statutory minimum remuneration, or fails to observe any of the conditions of employment prescribed in the order, he or she commits an offence and is liable on conviction to a fine not exceeding five hundred currency points for each offence or imprisonment for a term not exceeding three years or both.

(3) Court shall upon convicting the accused person under subsection (2) order the employer to pay such sum as is found by the court to represent the difference between the amount which ought to have been paid to the employee by way of remuneration if the provisions of this Act had been complied with, and the amount actually paid.

(4) The powers given by this section for the recovery of sums due from an employer to an employee shall be in addition to and not in derogation of any right to recover such sums by civil proceedings; but no person shall be liable to pay twice in respect of the same cause of action.

PART IV — MISCELLANEOUS

16. Records and notices.

(1) The employer of an employee to whom a minimum wage applies shall keep records of employment of his or her employees, including wage sheets, employee contracts, records of employee payments and any other records required to be kept under any other applicable laws.

(2) The employer of any such employees shall exhibit in the prescribed manner in English and such other language or languages as an authorised officer may in writing direct such notices as may be prescribed for the purpose of informing the employees of the minimum wage payable to them.

(3) An employer who fails to comply with any of the requirements of this section commits an offence and is liable on conviction to a fine not exceeding two hundred currency points or imprisonment for six a period not exceeding twelve (12) months.

17. Powers of Authorised Officers.

(1) Where a minimum wage has been determined in accordance with this Act and become enforceable in respect of any employee, an authorised officer shall have power—

- (a) to require the production of wage sheets or other records of wages kept by an employer, and records of payments made to employees and any other such records as are required by this Act to be kept by employers;
- (b) to inspect and examine and get copies of records kept by the employer;
- (c) to require an employer to give any information which it is in his or her power to give with respect to the persons he or she employs.

(2) An authorised officer shall not disclose any information obtained in the exercise of the powers conferred by this section.

(3) Every authorised officer shall identify him or herself before enforcing any of the provisions of the Act except where such identification is likely to prejudice the enforcement of this Act or where it is expedient to keep the authorised officer's identity a secret.

18. Penalty for obstruction of authorised officers.

A person who obstructs an authorised officer in the exercise of any power conferred by this Act commits an offence and is liable on conviction to a fine not exceeding twenty five currency points.

19. Penalty for false entries or records.

A person who makes or causes to be made or knowingly allows to be made any entry in a record required by this Act to be kept by employers, which he or she knows to be false in a material particular, or, for any purpose connected with this Act, produces or furnishes, or causes or knowingly allows to be produced or furnished, any wages sheet, record, list or information which he or she knows to be false in a material particular, he or she commits an offence and is liable on conviction to a fine not exceeding two hundred currency points or to imprisonment for a term not exceeding 12 months or to both.

20. Void agreement.

Any agreement which is in conflict with the provisions of this Act shall, to the extent of such conflict, be void.

21. Rules.

The Minister may make rules prescribing anything that is to be prescribed under the provisions of this Act and generally for better carrying into effect the provisions of this Act.

History: Cap. 221

Cross References

The Constitution, 1995

Employment Act, 2006

Labour Disputes (Arbitration and Settlement) Act, 2006 Cap. 224

