

CHAPTER 346

EMPLOYMENT (MISCELLANEOUS PROVISIONS)

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CHAPTER 346

EMPLOYMENT (MISCELLANEOUS PROVISIONS)

An Act to repeal the Employment of Women, Young Persons and Children Act and make new provision relating to the employment of persons generally including young persons and children. 1977-6.
2001-5.

[24th March, 1977] Commence-
ment.

PART I

Preliminary

1. This Act may be cited as the *Employment (Miscellaneous Provisions) Act*. Short title.

2. For the purposes of this Act

"Chief Labour Officer" includes any person authorized by the Chief Labour Officer to act on his behalf; Interpretation.

"child" means a person who has not attained the age of 16 years; 2001-5.

"industrial undertaking" includes

- (a) any mine, quarry and other work respecting the extraction of minerals from the earth;
- (b) any undertaking in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including an undertaking engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;

(c) any undertaking engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work; and

(d) any undertaking the Minister prescribes;

"Minister" means the Minister responsible for Labour;

"Port Manager" includes any person authorized by the Port Manager to act on his behalf;

"ship" means any sea-going ship, vessel or boat of any description registered in Barbados;

2001-5. "young person" means a person who has attained the age of 16 years but who has not attained the age of 18 years.

PART II

Employment of persons generally

Interpreta-
tion.

3. For the purposes of this Part and section 24

"night" means the period commencing at 9.00 p.m. of one day and ending at 7.00 a.m. of the following day.

Employment
of persons at
night.

4. (1) No employer shall employ any person to work during the night in any industrial undertaking unless he obtains a certificate from the Chief Labour Officer for the purpose.

(2) The Chief Labour Officer shall, before issuing a certificate under subsection (1), satisfy himself that

(a) adequate transportation is available for transporting employees to their place of work, and to their homes within a reasonable time after work;

- (b) the employer has provided proper rest room facilities and facilities for eating meals at the place of employment; and
- (c) adequate intervals for rest and meal-time are afforded those employees.

(3) The Chief Labour Officer may at any time revoke a certificate issued under this section.

5. Section 4 does not apply in a case of *force majeure* that could not be foreseen but is not of a recurring nature. Non-application of section 4.

6. This Part does not apply to

- (a) persons holding responsible positions of a managerial or technical nature; Non-application of this Part.

- (b) persons employed in health and welfare services who are not ordinarily engaged in manual work;
- (c) undertakings in which only members of the same family are employed;
- (d) persons employed in the sugar industry.

PART III

Employment of young persons

7. For the purposes of this Part—

Interpretation.

“ industrial undertaking ” includes, in addition to those industrial undertakings set out in the definition “ industrial undertaking ” in section 2, any undertaking engaged in the transportation of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports;

“ night ” means the period commencing at 6.00 p.m. of one day and ending at 7.00 a.m. of the following day.

8. (1) Except as set out in this Part, no young person shall be employed in any industrial undertaking during the night or in any work that by its nature or the circumstances under which it is done is likely to cause injury to his health, safety or morals.

Employment of young persons.

(2) For the purposes of apprenticeship or vocational training in a specified industry or undertaking that is required to be carried on continuously, the Minister may, after consultation with the workers' and employers' organisations concerned, authorise the employment, during the night, of young persons.

(3) Where the Minister authorises the employment of a young person pursuant to subsection (2), that young person shall be granted a period for rest of at least thirteen consecutive hours between two periods of work.

9. Where young persons are employed in an industrial undertaking or a ship, the employer of those young persons, or the master of the ship, as the case may be, shall keep a register in which that employer or master shall record in respect of those young persons—

Register of young persons employed in industrial undertaking or ship.

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- (a) their names and addresses;
- (b) the dates of their birth; and
- (c) the dates of their entering and leaving the service of that employer,

and that register shall be kept open to inspection by the Port Manager, the Chief Labour Officer and members of the Police Force at all reasonable times.

PART IV

Employment of children

Interpreta-
tion.

10. For the purposes of this Part—

“ industrial undertaking ” includes, in addition to those undertakings set out in the definition “ industrial undertaking ” in sections 2 and 7, construction, reconstruction, maintenance, repair, alteration or demolition of any building, harbour, dock, pier, canal, road, tunnel, bridge, viaduct, sewer, drain, sanitary service, well, telegraphic or telephonic installation, electrical undertaking, gaswork, waterwork or other work of construction, as well as the preparation for, or laying the foundation of, any such work or structure.

Restrictions
on employ-
ment of
children.

11. No child shall be employed in any industrial undertaking or ship.

Non-
application
of this Part.

12. This Part does not apply to work done by children in—

- (a) technical schools, on school ships or training ships under the supervision of a teacher or person authorised by the Minister responsible for Education; or
- (b) any industrial undertaking or ship in which only members of the same family are employed.

PART V

Miscellaneous

Employment
of children.

13. Notwithstanding anything contained in this Act, no child shall be allowed to work between 6.00 p.m. of one day and 7.00 a.m. of the following day in any undertaking whatever.

14. (1) No person shall employ a child or young person of compulsory school age in any undertaking whatever during school hours.

Prohibition of employment of persons of compulsory school age.

(2) In this section “ compulsory school age ” and “ school hours ” have the meanings respectively assigned to them by section 2 of the Education Act.

Cap. 41A.

15. An employee who employs any person in contravention of this Act is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Employment of persons contrary to Act.

16. It is a defence for an employer charged with an offence under this Act, upon information duly laid by him, to have any person whom he alleges to be the actual offender brought before the court at the time appointed for hearing the charge and, if, after the commission of the offence is proved, the court is satisfied that the employer had used due diligence to comply with this Act and that that other person had committed the offence without the knowledge, consent or connivance of the employer, that other person may be convicted and the employer acquitted.

Defence.

17. Where a member of the Police Force, the Port Manager, or the Chief Labour Officer has ascertained the person by whom an offence was committed and that the offence was committed without the knowledge, consent or connivance of and contrary to the order of the employer, that member of the Police Force, the Port Manager or the Chief Labour Officer, as the case may be, shall proceed against the person whom he believes to be the actual offender and not against the employer.

Member of Police Force, etc. to proceed against actual offender.

18. (1) Where on information of a member of the Police Force, the Port Manager or the Chief Labour Officer, as the case may be, it appears to any Justice of the Peace that there is reasonable cause to believe that a child is employed in any place contrary to this Act, such Justice may, by order under his hand, authorise any member of the Police Force to enter that place at any reasonable time, within forty eight hours from the date of the

Power of entry.

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order, and examine such place and any person therein concerning the employment of any child therein.

- (2) Any person who—
 - (a) assaults, obstructs or intimidates;
 - (b) uses indecent, abusive or insulting language to;
 - (c) interferes with, hinders, or refuses to admit; or
 - (d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent, from entering any place and examining that place or any person therein,

a member of the Police Force authorised under subsection (1), is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Contra-
vention of
section 9.

19. Any employer in an industrial undertaking or master of a ship, as the case may be, who contravenes section 9 is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding twelve months or both.

Parent
conducting
to taking
child into
employment.

20. (1) Where—

- (a) a parent of a child;
- (b) a person liable to maintain a child; or
- (c) a person having actual custody of a child,

by wilful default or neglect fails to exercise due care over such child or conduces to the offence of taking a child into employment contrary to this Act he is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both.

(2) Where a child is taken into employment in any industrial undertaking or ship contrary to this Act on the production, by or with the privity of the parent or person having actual custody of such child, of a false or forged certificate of birth or on the false representation by the parent or person that the child is of such age that his employment is not in contravention of this Act,

that parent or person, as the case may be, is liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding three months or both.

21. Where a conviction has been obtained under this Act and the offence continues, the offender is liable to a fine not exceeding two hundred and fifty dollars for each day or part thereof during which the offence continues after the conviction was first obtained.

Continuing offences.

22. The Minister may make regulations—

Regulations.

- (a) making a division between industry, and commerce and agriculture for the purposes of this Act;
- (b) prescribing as respects any area, industrial undertaking or branch of an industrial undertaking the number of hours and the intervals during which persons may be employed at night;
- (c) respecting safety and sanitary conditions, including light, ventilation, overcrowding, escape in case of fire, and such other conditions as the Minister determines, with regard to any industrial undertaking in which persons including young persons and children are employed;
- (d) prescribing anything that is by this Act authorised or required to be prescribed;
- (e) generally for the better carrying into effect of this Act.

23. This Act is in addition to and not in derogation of any other enactment restricting the employment of persons including young persons and children.

Act not in derogation of other enactment.

Transitional.

24. The provisions of Part II shall not apply before the 1st May, 1978¹ in respect of persons who at the commencement of this Act are engaged in employment during the night.

¹ Being the day appointed by S.I. 1977 No. 121.