

CHAPTER 148

EMPLOYMENT OF PRIVATE SECTOR TRAINEES

Act
No. 8 of 1978.

AN ACT TO PROVIDE FOR EMPLOYERS OF WORKMEN IN THE PRIVATE SECTOR TO ENTER INTO CONTRACTS OF TRAINING WITH PERSONS ON CERTAIN TERMS AND CONDITIONS; TO GUARANTEE EMPLOYMENT FOR THE TRAINEES AFTER THE CONCLUSION OF THE PERIOD OF TRAINING UNDER THE CONTRACT; AND TO PROVIDE FOR CONNECTED MATTERS.

[1 st May, 1978.]

Short title.

1. This Act may be cited as the Employment of Trainees (Private Sector) Act.

(b) forty-five hours in any one week.

Contracts of training.

2. Without prejudice to any scheme of training of, or to the employment of, apprentices in any other law, an employer of workmen in the private sector (hereafter in this Act referred to as the "employer"), may enter into a contract of training with any trainee for such period not exceeding one year as may be determined by the employer on terms and conditions hereafter set out in this Act, for the purpose of providing practical training to the trainee in any vocation specified in column I of the Schedule to this Act.

5. Where a trainee is engaged by the employer to work after or in excess of the normal hours of work, the employer shall pay the trainee an overtime allowance calculated at the rate of one and a half times the normal hourly rate of the allowance payable to him under section 3(1). Overtime allowance.

Allowance payable to a trainee.

3. (1) Every employer who has entered into a contract of training with a trainee under section 2 shall during the period of training, pay the trainee such allowance, specified in column II of the Schedule to this Act, as may be applicable to the vocation specified in the corresponding entry in column I of that Schedule, for which the trainee is being trained.

6. On the ground of ill health, a trainee shall during the period of training be entitled to leave, with full allowances payable to him, for a period, or aggregate of periods, not exceeding seven days, if the application for leave is supported by a medical certificate issued by a registered medical practitioner. Medical leave.

(2) A trainee shall not be entitled to receive during the period of training any salary, wage or allowance other than the allowance payable to him under subsection (1) or an allowance that may be paid to him under section 5.

7. The provisions of the Shop and Office Employees (Regulation of Employment and Remuneration) Act, the Industrial Disputes Act, the Wages Boards Ordinance, the Trade Unions Ordinance, the Termination of Employment of Workmen (Special Provisions) Act, and any collective agreement relating to a vocation specified in column I of the Schedule to this Act, shall not apply to a trainee during the period of training. Certain laws and collective agreements not trainees.

Hours of work of a trainee.

4. The normal hours of work for a trainee shall not exceed—

(a) nine hours (inclusive of an interval of one hour for meals) in any one day; and

8. (1) The provisions of the Workmen's Compensation Ordinance relating to compensation to be paid to a workman on account of injury or death by accident shall apply to a trainee as if he were a workman within the meaning of that Ordinance. Certain laws to apply to trainees and employees.

(2) The provisions of the Employees' Provident Fund Act relating to the payment of contributions to the Employees' Provident Fund established under that Act shall apply to every employer and trainee as if they were respectively an employer and employee under that Act.

Guarantee of employment to trainees.

9. The employer shall, at the conclusion of the period of training, provide employment to the trainee in a vocation specified in column I of the Schedule to this Act, for which he has been trained or in the alternative find him other suitable employment.

Termination of contract of training.

10. (1) An employer may terminate a contract of training under this Act-

- (a) in the exercise of disciplinary control over the trainee; or
- (b) with the permission of the Commissioner of Labour if, in the opinion of the employer, the trainee has failed to acquire the required degree of proficiency for employment in the vocation for which he is being trained.

(2) A trainee may, after giving thirty days' notice to the employer, or in lieu of the notice, on the payment to the employer of the allowance (if any) paid to him in the preceding month, terminate the contract of training.

Regulations.

11. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of all or any of the following matters—

- (a) the preparation and maintenance of a register of trainees and the taking of copies of the whole or any part of the register;
- (b) the making and furnishing of returns by employers and the taking of copies of the whole or any part of a return;

(c) the prevention of abuse of the terms and conditions of a contract of training; and

(d) powers of entry into, and inspection of, places of training of trainees or places where registers and returns relating to trainees are kept.

(3) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) The date on which any regulation shall be deemed to be so rescinded shall be published in the Gazette.

12. (1) An employer who fails to pay a trainee any allowance payable to him under this Act or contravenes the provisions of section 9, shall be guilty of an offence and shall be liable on conviction by a Magistrate to a fine not exceeding one thousand rupees or to imprisonment not exceeding six months or to both such fine and imprisonment.

(2) Where an employer is convicted under subsection (1) for failure to pay any allowance to a trainee, the Magistrate may in addition to any other penalty which he may impose for the offence, order the employer to pay the sum due as allowance to the trainee and such sum shall if not paid by the employer be recovered as a fine imposed by the Magistrate and paid when so recovered to the trainee.

(3) In a prosecution for an offence under subsection (1) any register maintained or a return made by an employer shall be admissible in evidence and shall, as against the employer, be prima facie evidence of the particulars stated therein.

Cap. 148] EMPLOYMENT OF PRIVATE SECTOR TRAINEES

Offences by bodies of persons.

13. Where an offence under this Act is committed by a body of persons—

- (a) if that body is a body corporate, every person who at the time of the commission of the offence was a director, secretary or other similar officer of that body; or
- (b) if that body is not a body corporate, every person who at the time of the commission of that offence was a member of that body,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of that offence as he ought to have exercised having regard to the nature of his functions and in all the circumstances.

This Act to prevail.

14. The provisions of this Act shall have effect notwithstanding anything contained in any other written law and accordingly in the event of any conflict or inconsistency between the provisions of this Act and such other written law, the provisions of this Act shall prevail.

15. In this Act, unless the context otherwise requires—

" collective agreement " has the same meaning as in the Industrial Disputes Act;

" Commissioner of Labour " means the person for the time being holding the office of the Commissioner of Labour and includes a Deputy Commissioner of Labour or an Assistant Commissioner of Labour;

" employer " includes a body of employers whether that body is a body corporate or not;

" hourly rate " means the rate obtained by dividing the monthly rate payable to a trainee by 240 or the daily rate payable to a trainee by 8, as the case may be;

" registered medical practitioner " means a medical practitioner registered under the Medical Ordinance or an ayurvedic practitioner registered under the Ayurveda Act;

" trainee " means a person with whom an employer enters into a contract of training under section 2.

[Sections 2 and 3.]

SCHEDULE

Column I

Column II

VOCATIONS

ALLOWANCE

- | | |
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| <ol style="list-style-type: none"> 1. Clerks, stenographers, bookkeepers, typists, supervisors, salesmen, shop assistants, storekeepers, telephone operators, cashiers, foremen or any other similar vocation. 2. Watchers, caretakers, bicycle orderlies, peons, liftmen, office and shop labourers, outside messengers, tea boys or other similar vocation. 3. Any vocation in a factory or in any trade for which a Wages Board has been established under the Wages Boards Ordinance other than a vocation specified in items 1 and 2. | <p>Two hundred and seventy-five rupees per month.</p> <p>Two hundred and forty rupees per month or ten rupees per day for each day on which he is engaged.</p> <p>One hundred and eighty rupees per month or seven rupees and fifty cents per day for each day on which he is engaged.</p> |
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