

9 GEO. V. No. 19, 1918. *Wages Act.*

LABOUR.

Wages Act of 1918 9 *Geo. V. No. 19*
Workers' Compensation Acts Amendment Act of 1918 9 *Geo. V. No. 21*

An Act to make better provision for the Payment of Wages due to Workers, and for other incidental purposes.

9 *Geo. V. No. 19.*
THE
WAGES ACT
OF 1918.

[ASSENTED TO 23RD NOVEMBER, 1918.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "*The Wages Act of 1918*," and is divided into Parts, as follows:—

PART I.—
 PRELIMINARY.
 Short title
 and Parts of
 Act.

PART I.—PRELIMINARY;

PART II.—PROTECTION OF WAGES;

PART III.—TRUCK;

PART IV.—MISCELLANEOUS.

2. (1.) The Acts mentioned in the First Schedule to this Act are repealed to the extent therein indicated.

Repeal.
 Sch. J.

(2.) Save as by this Act is expressly provided, nothing in this Act contained shall be construed to repeal or otherwise prejudicially affect any of the provisions of *"*The Contractors' and Workmen's Lien Act of 1906*."

Saving of
 6 *Edw. VII.*
No. 30.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings respectively assigned to them, that is to say:—

Interpre-
 tation.
 25 *Vic.*
No. 11,
N.Z. 1908,
No. 204,
ss. 2, 28.

"Contract," for the purposes of Part III., includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and worker are parties, or are assenting, or by which they are mutually bound to each

Contract.

* 6 *Edw. VII. No. 30, supra*, page 1242.

other, or whereby either of them has endeavoured to impose an obligation on the other of them ;

Contractor ;
subcon-
tractor.

“ Contractor ”—For the purposes of all the provisions of this Act except Part III.—a person who contracts directly with the employer for the performance of work for him ; “ sub-contractor ” means a person who contracts with a contractor, or with another subcontractor, for the performance of work for such contractor or subcontractor ;

Court.

“ Court ”—The court in which any proceeding is taken under this Act : the term includes the judge of any such court, and a police magistrate or justices in any matter in which such magistrate or justices has or have jurisdiction ;

Crop.

“ Crop ” includes any growing crop of agricultural or horticultural produce as defined by the sections of the * “ *Mercantile Act of 1867* ” relating to liens on crops ;

Employer.

“ Employer ”—Any person at whose request, or upon whose credit or on whose behalf with his privity or consent, work is done : the term includes all persons claiming under him whose rights are acquired after the work in question is commenced :

For the purposes of Part III., the term includes any master, manager, foreman, agent, or other person engaged in the hiring, employment, or superintendence of the service, work, or labour of any worker ;

Money.

“ Money ”—Current coin of the realm : the term includes the coinage and notes issued by the Commonwealth ;

Mortgage,
&c.

“ Mortgage ” includes any mortgage or bill of mortgage upon land, or any registered bill of sale or any registered lien upon any crop, or any registered mortgage upon stock ; “ Mortgagee ” includes the original mortgagee and also the person for the time being entitled in any way to enforce a mortgage ; “ Mortgagor ” includes the original mortgagor and also the person for the time being entitled to redeem any mortgage ;

* 31 Vic. No. 36, *supra*, page 2133.

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“Person” includes a body of persons whether Person.
 corporate or unincorporate, and a firm of
 partners and any local authority or other local
 governing body;

“Stock” includes cows, bulls, bullocks, heifers, Stock.
 steers, calves, horses, mares, colts, fillies, foals,
 asses, mules, sheep, lambs, goats, and swine;

“Wages” includes any money paid or contracted Wages.
 to be paid, delivered, or given as a recom-
 pense, reward, remuneration, or consideration
 for any service, work, or labour rendered or
 done, or to be rendered or done by a worker
 whether, within a certain time or to a certain
 amount, or for a time or an amount uncertain,
 and whether payable daily, weekly, monthly,
 or otherwise :

The term does not include recompense,
 reward, remuneration, or consideration for any
 service, work, or labour rendered or done or to
 be rendered or done by—

- (a) A barrister, solicitor, conveyancer, or legal practitioner, or a legally qualified medical practitioner, or an authorised surveyor, or a registered pharmaceutical chemist, or a registered dentist, or a registered optician, or a public analyst, or a veterinary surgeon, or a consulting engineer, or an architect, or a public accountant, actuary, or auditor, or any other person retained or engaged to render professional services requiring personal skill, knowledge, and attention; or
 - (b) A person who contracts directly with an employer for the performance of work not performed solely by such person; or
 - (c) An auctioneer or agent; or
 - (d) A person employed on wages at a rate exceeding four hundred pounds per annum;
- “Worker”—Any person, male or female, whether Worker.
 under or not under the age of twenty-one
 years, in any manner engaged or employed
 by an employer in work of any kind whatso-
 ever subject to the direction and control of
 an employer, and whether the worker’s
 remuneration is to be according to time or by
 piecework, or at a fixed price, or otherwise
 howsoever.

PART II.—PROTECTION OF WAGES.

Wages to be
first charge
on money
due to or in
hands of
contractor.
N.Z. 1908,
No. 204, s. 4.

4. The wages due to workers employed on any work shall, subject to the employer's rights as mentioned in section eleven hereof, be a first and paramount charge upon the moneys due to the contractor by the employer under or in respect of the work :

Provided that until service of notice of attachment, as hereinafter mentioned, the employer shall be at liberty to pay to the contractor all moneys which have accrued due and are payable by the employer to the contractor under or in respect of the work.

In this section "work" includes any contract or undertaking.

Assignment
of money
due or
received
under con-
tract to have
no effect
until wages
paid to
workers.
Ib. s. 5.

5. Every assignment, disposition, or charge (legal or equitable) made or given by the contractor to any person whomsoever, other than his workers for wages due to them in respect of the contract in question, of or upon the moneys due or to become due to him under or in respect of the work shall have no force or effect at law or in equity as against wages due or to accrue due to the workers.

In this section "work" includes any contract or undertaking.

Moneys
received by
contractor
not to be
attached,
and to be
applied in
payment of
wages due.
Ib. ss. 6, 7.

6. (1.) Moneys due to or received by the contractor from the employer under or in respect of the work shall not be liable to be attached or charged, except by the workers as hereinafter mentioned, until all wages due or to accrue due to the workers have been fully paid and satisfied or secured to the satisfaction of the court, and the contractor shall apply all such moneys received by him, so far as may be necessary, in payment of the wages due and to accrue due to the workers.

Contractor
to keep
accounts and
to produce
same to
workers.

(2.) The contractor shall keep a full and truthful account in writing of all such moneys received by him as aforesaid, and of the manner in which the same are disbursed or disposed of, and shall, on the application of any worker whose wages are more than eight clear days in arrear, and have not been paid when demanded, produce such account to such worker for his inspection, and such worker shall be at liberty to take a copy of or extracts from the said account.

(3.) In this section "work" includes any contract or undertaking.

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PROTECTION
OF WAGES.

7. (1.) Any worker whose wages remain unpaid for twenty-four hours after they become payable and have been demanded may serve the employer, or his attorney or agent, with a notice of attachment in the form numbered (1) in the Second Schedule hereto or to the effect thereof; and upon service thereof all moneys due and thereafter to become due and payable to the contractor shall be attached, and shall be retained by the employer to meet the claims in respect of the first notice and all other notices of attachment served within seven days after the first of such notices; and after the lapse of such seven days the amount of the moneys claimed in all such notices shall be attached, and shall be retained by the employer until the court in which the claims are heard directs to whom and in what manner the same are to be paid.

Worker whose wages are in arrear may attach moneys in hands of employer.
N.Z. 1908, No. 204, s. 9. Sch. II, f. 1.

(2.) But any employer may pay into the aforesaid court the sum mentioned in every such notice of attachment, if such sum is an ascertained and fixed sum, and the receipt of the clerk or registrar of the court for the said sum shall be a full discharge to the employer of his liability under the attachment.

8. (1.) If the worker obtains judgment against the contractor for the wages claimed, or any part thereof, he may obtain from the court an order, in the form numbered (2) in the Second Schedule hereto or to the effect thereof, for the payment by the contractor's employer of the amount of the judgment, and may serve a copy of such order upon such employer or his attorney or agent.

Court may order employer to pay worker obtaining judgment against contractor.
Ib. ss. 10, 11, Sch. II, f. 2.

(2.) At the expiration of seven days after service of such order, but not earlier, the employer, unless he has received written notice of appeal against such judgment, shall, out of the moneys attached in his hands, pay the amount stated in such order to the worker.

9. (1.) Subject to the provisions of the two last preceding sections, all moneys attached as aforesaid shall be paid by the employer in priority according to the order of the service of the notices attaching such moneys; but all notices served within seven days after the first of such notices of attachment shall be deemed to be served simultaneously, for the purpose of securing the equal distribution of the moneys attached amongst all workers serving such notices within the aforesaid seven days.

Workers to be paid according to priority of notice.
Ib. ss. 12, 13. Simultaneous notices.

Simul-
taneous
notices to
rank equally
among them-
selves.

(2.) All demands for wages of workers who serve simultaneous notices as aforesaid shall rank equally among themselves, and shall be paid in full, unless the moneys attached in the hands of the employer are insufficient to meet them, in which case they shall abate in equal proportions between themselves.

Employer
liable only
for amount
due to
contractor.
N.Z. 1908,
No. 204, s. 14.

10. The employer served with an order or orders under this Part shall not be liable to make good any demand made on him to a greater extent than the sum which is actually due and owing by him to the contractor at the time of the service of such order, or the payment thereunder.

On failure to
pay, worker
may sue
person
served with
notice.
Ib. s. 15.

11. If the employer served with notice of attachment and order for payment fails to pay as aforesaid, the worker may sue for and recover in his own name, in any court having jurisdiction in the matter, the moneys attached by any proceeding which the contractor might have taken had there been no attachment under this Part, subject to the right of the employer to set off against the worker's demand all moneys properly paid by the employer to the contractor under the contract prior to the service of the notice of attachment, and also all moneys which the contractor was at the time of the service of the notice of attachment liable to pay to the employer under the contract, or in consequence of any breach or non-performance thereof.

Employer
paying
contractor in
advance.
Ib. s. 8.

12. If the employer pays the contractor in advance, then in any proceedings by workers against the employer under this Part the employer shall not be entitled to be credited with or to set off any such payments against the wages due to and claimed by the workers.

On satisfac-
tion,
attachment
ceases to
operate.
Ib. s. 16.

13. Upon satisfaction of the worker's demand mentioned in any order for payment under this Act, or on the setting-aside of such order, any attachment of moneys effected under this Part shall cease to be operative, but without prejudice to any *bonâ fide* payment by the employer served with an order for payment in accordance with such order previous to his receiving notice of such satisfaction or setting-aside of the order.

Discharge
by worker.
Ib. s. 17.

14. The worker shall, on the request of the person paying to him the demand specified in any order for payment under this Part, and at the time of receiving the

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same, sign a discharge therefor in the form numbered (3) in the Second Schedule hereto or to the effect thereof. Sch. II., f. 3.

15. Subject to the provisions of sections forty-two and forty-four of this Act, if the employer or contractor by himself or the agency of any other person, contravenes or, without good reason, fails to comply with any of the provisions of this Part, such employer, contractor, or agent shall be liable to a penalty not exceeding fifty pounds. Offences. N.Z. 1908, No. 204, s. 24.

16. (1.) Where any work is let by a contractor to a subcontractor, every worker in the service of such subcontractor shall have the same rights and remedies in all respects against the first-mentioned contractor as a worker in the service of a contractor has under this Part against the employer of such last-mentioned contractor. Remedies of workers in service of subcontractor. Ib. s. 25.

(2.) For the purpose of giving effect to this section all the foregoing provisions of this Part shall be read as if there had been enacted therein respectively the word "contractor" in the place of the word "employer" and the word "subcontractor" in the place of the word "contractor."

17. No order attaching or charging the wages of any single worker having a person or persons dependent on his wages or any married worker shall be made by any court, except as follows, that is to say :—If the amount of wages exceeds the rate of two pounds per week, any surplus above that sum shall be liable to attachment as before the passing of this Act. No order attaching wages. Ib. s. 27. Exception. Costs.

In the case of all persons in the employment of the Crown, the service of any such order on the paymaster of the Government department or office shall be effectual and shall bind the Crown.

18. Where an employer, in satisfaction of his liability under this Act, pays wages due to a worker of a contractor employed by such employer for work performed by such contractor under a contract with such employer, then, in the event of such contractor becoming insolvent or compounding with his creditors, or being a company in respect of which proceedings for winding-up have been commenced, such payment shall be deemed to be and shall be treated as a preferential claim against the estate of such contractor in the same manner as if such wages were due to the worker. Employer, when to be subrogated to worker's rights. Ib. s. 28.

PART III.—TRUCK.

Wages to be made payable in money. N.Z. 1908, No. 204, s. 29.

19. (1.) In every contract made with any worker the wages of such worker shall be made payable in money only, and not otherwise; and if by agreement, custom, or otherwise a worker is entitled to receive in anticipation of the regular period of the payment of his wages an advance as part or on account thereof, it shall not be lawful for the employer to withhold such advance or make any deduction in respect of such advance on account of poundage, discount, or interest, or any similar charge.

No deduction for interest.

Contracts in contravention of this section void.

(2.) If in any such contract the whole or any part of such wages is made payable in any manner other than in money, or provision is made for any deduction or charge as aforesaid in respect of any advance of the whole or a part of the wages of the worker, such contract shall be and is hereby declared illegal and void so far as any promise or consideration made or given by or arising out of the same relates to the payment of such wages otherwise than in money, or as to making any such deduction or charge as aforesaid; and such promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

Wages to be paid in money. lb. s. 31.

20. Except as hereinafter provided—

- (i.) The entire amount of the wages earned by or payable to any worker shall be actually paid to such worker in money, and not otherwise, at intervals of not more than one month if demanded: Provided that in case of the termination of the employment the entire amount of such wages shall be so paid within three days after such termination if demanded:
- (ii.) Every payment made to any such worker by his employer of or in respect of any such wages by the delivering to him of goods, or otherwise than in money, is hereby declared illegal and void;
- (iii.) Every worker shall be entitled to recover from his employer in any court of competent jurisdiction the whole or so much of the wages earned by such worker as has not been actually paid to him by his employer in money.

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TRUCK.

21. (1.) No employer shall, directly or indirectly, by himself or his agent, impose as a condition, expressed or implied, in or for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom, any wages or portion of wages paid to the worker are to be expended.

No contract to stipulate as to mode of spending wages.
N.Z. 1908, No. 204, s. 30.

(2.) No employer shall dismiss any worker from his employment for or on account of the place at which, or the manner in which, or the person with whom, any wages paid by the employer to such worker are expended or are not expended.

22. In any action brought or commenced by any worker against his employer for the recovery of any sum of money due to such worker as his wages, the defendant shall not be allowed to make any set-off or counterclaim, nor to claim any reduction of the plaintiff's demand, by reason or in respect of any goods had or received by the plaintiff as or on account of his wages.

No set-off for goods supplied to worker by employer.
Ib. s. 32.

23. Except by agreement or industrial award, no deduction shall be made from a worker's wages for sharpening or repairing tools.

No deduction for sharpening or repairing tools.
Ib. s. 34.

24. (1.) It shall not be lawful for any employer directly or indirectly to take or receive any money from any worker in his employ, whether by way of deduction from wages or otherwise howsoever, in respect of any policy of insurance against injury by accident.

Deductions, &c., for accident policies forbidden.
Ib. s. 35.

(2.) All money so taken or received as aforesaid from any worker in breach of this section may by him be recovered at any time not exceeding six months thereafter, with full costs of action, from the employer or person who took or received it.

25. Nothing herein shall be construed to prevent or render invalid any contract for the payment, or any actual payment, to any worker of the whole or any part of his wages in a cheque, draft, or order in writing for the payment of money to the bearer on demand, drawn on any person, company, or association carrying on the business of a banker in Queensland, either generally or with any particular persons or class of persons only, if payment by cheque, draft, or order in his case is the usual mode of payment, and if the cheque, draft, or order tendered in payment includes such amount of exchange

Payment of wages may be made by cheque.
Ib. s. 36.

as will ensure to the worker payment in full of wages at the place where such payment is tendered; and, subject as hereinafter provided, all payments so made shall be as valid as if made in money :

Provided that—

(a) No such cheque shall be crossed :

(b) If wages are paid by a cheque, draft, or order in writing as aforesaid, and the same is dishonoured, the worker shall be entitled to recover from his employer such reasonable damages as he has sustained in consequence of such dishonour, and such damages shall be recoverable in any court of competent jurisdiction in addition to any wages due or payable to such worker.

Breaches
of this Part.
N.Z. 1908,
No. 204, s. 38.

26. If an employer, by himself or the agency of any other person, directly or indirectly enters into any contract or makes any payment by this Part declared to be illegal and void wholly or in part, or if an employer or his agent contravenes or fails to comply with any of the foregoing provisions of this Part, such employer or agent, as the case may be, shall be liable to the following penalties :—

(a) For the first offence, a penalty not exceeding five pounds ;

(b) For the second or any subsequent offence, a penalty not exceeding twenty-five pounds.

Consent of
worker no
defence.
Ib. s. 39.

27. In any proceedings against any employer, company, or person—

(a) For the breach of any provision of this Part ;
or

(b) For the recovery by the worker of money alleged to have been taken, received, deducted or detained from him in breach of any provision of this Part ;

the fact that the worker consented thereto shall not avail in any way as an answer or defence.

This Act
not to apply
in certain
cases.
Ib. s. 47.

28. (1.) Nothing in this Act shall be construed to invalidate or prejudice the following contracts or transactions, namely :—

(a) Where an employer supplies or contracts to supply to any worker any medicine or medical

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attendance, or any fuel, materials, tools, appliances, or implements to be by the worker employed in his trade, labour, or occupation ;

- (b) Where an employer supplies or contracts to supply any worker who has engaged with him with the necessary outfit and means of support, and materials or tools requisite for commencing or continuing his engagement, to any amount not exceeding in any case the amount of two months' wages to be earned by such worker in such engagement ;
- (c) Where an employer supplies or contracts to supply to any worker any hay, corn, or other provender to be consumed by any horse or other beast of burden employed by the worker in his trade, labour, or occupation ;
- (d) Where an employer demises to any worker the whole or any part of any tenement at any rent to be therein reserved, or allows such worker the use of a tenement as part of his wages or in addition to his wages, or any other allowance or privilege in addition to money wages as a remuneration for his services ;
- (e) Where such employer supplies or contracts to supply to any worker or his family any foodstuffs ;
- (f) Where an employer supplies to any worker tobacco or clothing ;
- (g) Where a deduction from wages or earnings is agreed on at a colliery for providing the wages of a check weighman employed thereat.

(2.) This Part shall not be construed to prevent an employer—

- (a) Pursuant to an agreement with a worker, from making any deduction or stoppage from the wages of such worker for or in respect of any of the matters or things in this section herebefore mentioned ;
- (b) From advancing to any worker any money to be by him contributed to any friendly society, life insurance company or association, savings

bank, or other society or association whatever, or to any Commonwealth War Loan or War Savings Certificates, or from advancing any money for the relief of the worker or his wife or family in sickness, or from advancing any money to any person by the worker's order, or from advancing to any worker the amount of any steamer, railway, or coach fare or other travelling expense, or from deducting or contracting to deduct from the wages of the worker any such sum or sums of money advanced as aforesaid:

Provided that no deduction or stoppage shall exceed the amount of such advances and the true value of such things so supplied.

Con-
sequential
amendment.

29. In subsection one of section sixty-four of **"The Industrial Arbitration Act of 1916,"* after the words "the price or rate so fixed," the words "In every such award, order, or agreement the deductions permitted by *"The Wages Act of 1918"* shall be deemed to be authorised, although not expressly mentioned or referred to therein," are inserted.

PART IV.—
MISCEL-
LANEOUS.

PART IV.—MISCELLANEOUS.

30. (1.) Any worker who—

Workers not
entering into
service
according to
agreement,
absenting
themselves,
&c.

(a) Agrees with any person to serve him for any time or in any manner, and does not enter into his service or commence his work according to his agreement (such agreement if in writing being signed by the parties thereto, or if oral being made in the presence of a witness), shall be liable to a penalty not exceeding ten pounds.

(b) Having entered into such service as aforesaid or commenced such work as aforesaid, absents himself therefrom without reasonable cause before the term of his agreement has expired or before the work agreed for is completed, or without reasonable cause refuses or neglects to fulfil the same, shall be liable to a penalty not exceeding five pounds.

(c) After having entered into any agreement, whether oral or in writing, with any employer

Fraudulent
breach of
agreement.

* 7 Geo. V. No. 16, *supra*, page 7538.

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to serve him for any time or in any manner, obtains from his employer any advance of money or goods (where by this Act goods are permitted to be supplied) on account of the wages for which he has so agreed to serve, and after obtaining the same neglects or refuses without reasonable cause forthwith to go to the place at which he has so agreed to serve or to perform the work he has so agreed to perform to the extent of the advance in money or goods on account of wages so made, shall be liable to a penalty not exceeding ten pounds.

(2.) Any employer who agrees with any worker to employ him for any time or in any manner and thereafter, without reasonable cause, refuses or fails to permit the worker to commence such employment shall be liable to a penalty not exceeding ten pounds.

Breach of agreement by employer.

31. Any person who—

- (a) Wilfully pretends or falsely asserts in writing that any person has been in his employ for a period or in a capacity other than that for which or in which he was employed, or in any other material respect contrary to the truth, shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds ;
- (b) Forges or knowingly uses any forged certificates or documents purporting to be a discharge from or record of previous employment shall be guilty of an offence against this Act, and shall be liable to imprisonment for any period not exceeding three months ;
- (c) Having in his possession a valid certificate or document as aforesaid issued to some other person, assumes as his own name the name stated therein, and makes use of same when seeking employment, shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds ;
- (d) Assumes the name of another person and obtains or attempts to obtain employment by using such assumed name, whether the name

False representations, &c.

is that of a person living or dead or of a fictitious person, shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds ;

- (e) Wilfully or negligently spoils or destroys machinery, tools, work, or materials, or wilfully or negligently abandons, loses, or injures any cattle or other property belonging to or in charge of his employer, shall be guilty of an offence against this Act, and on conviction shall, as a penalty, pay forthwith such reasonable compensation as shall be ordered. In default of satisfaction of such penalty, the offender shall be liable to imprisonment.

What notice
required to
terminate
employment.

32. (1.) In any case where a worker is employed by the day—that is, from day to day—without any agreement for employment for a definite period, no notice by either party shall be required to terminate the employment.

(2.) In any case where a worker is employed under a weekly agreement, whether oral or in writing, the worker and employer, respectively, shall have the right to terminate such agreement upon giving seven days' notice of his intention so to do :

Provided that where a worker has been engaged under an agreement in writing and in accordance with the provisions of such agreement the employer advances to such worker a sum of money or goods for any purpose permitted under section twenty-eight hereof, and it is also agreed that such money or the money value of such goods shall be refunded from the wages that are or may become due to such worker, then such worker shall not be entitled to terminate his agreement before the expiration thereof unless he has refunded or made provision satisfactory to the employer to refund such money or money value.

If worker
absents
himself
unlawfully,
time not to
be counted
as part of his
agreement
and no
wages to be
claimed.

33. If any worker during the continuance of his agreement wilfully and unlawfully absents himself from his service without leave, the period of such absence shall not be taken into account in estimating his time of service under his agreement ; and his agreement shall be held to continue in full force beyond the time originally stipulated for a period equal to the term of such absence if the employer so requires.

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LANEOUS.

Any worker so absenting himself shall not be entitled to claim any wages for or during the period of such absence.

34. In any claim for unpaid wages, upon complaint made by the worker or on his behalf, any justice of the peace may issue his summons calling upon the person, or any of the persons upon whom the claim is made, to appear before any court of petty sessions where or near to the place where the service has been performed, or where or near to the place where the person or any of the persons upon whom the claim is made resides, to answer such complaint; and such court shall have jurisdiction to examine the parties and their respective witnesses (if any) concerning the complaint and the amount of wages due, and make such order for payment of the said wages with the costs incurred by the worker in prosecuting such claim, or any damages the worker has sustained by the neglect of his employer to pay the wages so found to be due, as appear to the court to be reasonable and just.

Wages
recoverable
in a
summary
way.

35. The summons mentioned in the last preceding section may, at the option of the worker, be issued calling upon the agent, manager, or overseer of his employer to appear before the court; and thereupon the court may hear and determine the matter of the complaint, and make an order for the payment by such agent, overseer, or manager to the worker of so much wages as to the court appear to be justly due with costs as aforesaid.

Agent
may be
summoned
for wages.

If such agent, overseer, or manager fails to pay such sum with costs awarded, and neglects or refuses to give a draft or order on his employer for such sum with costs awarded, then the court shall and may issue its warrant to levy the same by distress and sale of the goods and chattels of such employer.

36. (1.) Notwithstanding anything contained in the **Mercantile Act of 1867*," if any worker is prevented or hindered from recovering any wages from a mortgagor for work done in cultivating or otherwise improving any land under mortgage, or in cultivating or otherwise improving in connection with any crop under lien, or in connection with any animal or vegetable substance prepared or manufactured by machinery secured under bill of sale, or in tending,

Wages
recoverable
against
mortgagee
on failure
to recover
from
mortgagor.

* 31 Vic. No. 36, *supra*, page 2133.

feeding, driving, or otherwise in connection with any mortgaged stock, owing to such land, crop, machinery, or stock having been taken possession of or sold by the mortgagee, or owing to the cheques, drafts, or orders of the mortgagor being drawn upon and dishonoured by the mortgagee, the mortgagee shall, as between himself and such worker, be deemed to be and to have been the employer of such worker.

The mortgagor shall be deemed in the hiring of such worker to have acted as the duly authorised agent of the mortgagee, without prejudice, nevertheless, to any statement of accounts between mortgagor and mortgagee, and subject also to the following proviso, namely:—

Liability limited to six months from application for wages or taking possession of land, &c.

That such mortgagee shall not be liable for any wages accrued more than six months previous to the date of such worker's first application for such wages to such mortgagee, or a like period previous to the date of such mortgagee having taken possession of such land, crop, machinery, or stock, whichever of such dates was first in time.

Liability not to weaken mutual rights and duties.

(2.) The liability hereby imposed upon the mortgagee shall not in any manner weaken or interfere with the powers, duties, rights, and liabilities of the mortgagor as between himself and the worker.

Worker having obtained order for wages against mortgagor failing to obtain same may proceed against mortgagee.

(3.) If any worker has taken proceedings against a mortgagor for wages (whether he has or has not obtained an order for payment against the mortgagor), and, from any such cause as aforesaid, he fails to obtain payment of such wages or any part thereof from the mortgagor, he shall not, by reason of such proceedings, lose any right he would otherwise have to proceed under this section against the mortgagee for the amount of such wages, or the unpaid part thereof, as well as the costs of the proceedings against the mortgagee.

Warrant of distress may be levied whether property of mortgagor or mortgagee.

(4.) In any case in which any warrant of distress is issued to recover any wages due to a worker for any such work as aforesaid, such warrant shall and may be levied upon and enforced against the mortgaged land, or any premises, crop, machinery, or stock whereon or in connection with which such worker has been employed, notwithstanding that such land, premises, crop, machinery, or stock has been taken possession of by or on behalf of the mortgagee under his mortgage.

Any such warrant, so far as concerns the said land, premises, crop, machinery, or stock, shall be deemed to

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authorise a levy or distress and sale of or against the property of the mortgagee and also of or against the property of the mortgagor. Any sums so paid by or recovered from the mortgagee shall be deemed to be advances made by the mortgagee to the mortgagor under the mortgage and secured thereby and recoverable thereunder.

(5.) This section shall, *mutatis mutandis*, apply to and be deemed to include mines and all buildings, works, and machinery used in connection therewith; and the word "mortgage" in this section includes any mortgage or bill of sale of any mine or building, works, or machinery used in connection therewith; and the word "miners" means and includes all persons employed in and about any mine or in connection therewith:

Section to
apply to
mines and
miners.

Provided that the mortgagee shall not be liable for any wages of a miner accrued more than one month prior to the date of such miner's first application for such wages to such mortgagee, or a like period previous to the date of such mortgagee having taken possession of the mine, buildings, work, or machinery, whichever of such dates was first in time.

37. (1.) The amount for the time being due to all workers employed in or about a mine, in respect of their wages or other earnings in relation to the mine, not exceeding four weeks' wages or earnings to each such person, shall be a first charge upon the claim, leasehold, or land in or on which such mine is situated, notwithstanding that such claim, leasehold, or land is mortgaged or charged to secure the payment of any other moneys or that there is any lien upon the same.

Security for
wages.

And in the winding-up of a company formed for or engaged in working a mine, the amount (if any) due at the date of the winding-up order to such persons in respect of such wages or earnings, not exceeding four weeks' wages or earnings to each such person, shall be paid in priority to all other debts, secured or unsecured, of the company. Such first charge shall include all costs awarded against any person or company in any proceedings before a court to recover such wages or earnings, and any costs, charges, or expenses properly incurred in enforcing such order.

The debts so charged upon a claim, leasehold, or land and the debts so payable in priority to all other

debts of a company shall rank equally amongst themselves, and, if necessary, shall abate in equal proportions between themselves.

Con-
sequential
amendments.

(2.) Section one hundred and fifty-nine of **“The Mining Act of 1898”* is repealed.

In section forty-four of †*“The Contractors’ and Workmen’s Lien Act of 1906”* the words *“‘The Mining Act of 1898,’ or ‘The Wages Act of 1870,’ or ‘The Wages Act, 1884,’”* are repealed, and the words *“‘The Wages Act of 1918’”* are inserted in lieu thereof.

Withholding
property of
worker.

38. If any employer unlawfully detains or refuses to deliver the clothes, wearing apparel, bedding, tools, or any goods in his possession belonging to any worker, any court of petty sessions may inquire into the matter of such detention or refusal by complaint in a summary way, and make an order for the delivery, within such reasonable time as the court may appoint, of such clothes, apparel, bedding, tools, or other property.

Any employer who refuses or neglects to obey such order shall be liable to a penalty not exceeding five pounds, and the court may, by its warrant, cause such effects to be seized and delivered over to the worker.

Minors
may sue.

39. Any minor may sue or take any other proceedings under this Act in the same manner and to the same extent as if he were of full age.

Court may
award costs.
N.Z. 1908,
No. 204,
s. 21.

40. In all proceedings under this Act the court shall have power to award costs to any of the parties to such proceedings.

Service of
orders,
notices, &c.
Ib. ss. 23, 37.

41. (1.) All notices, orders, or documents required by this Act to be served on any person shall be served either personally or by registered letter addressed and posted to the last-known place of abode or business of such person, or shall be served in such manner and on such person as the rules direct, or as the court or the judge thereof in any particular case, by memorandum indorsed on the notice, order, or document to be served, directs.

Service of
legal process.

(2.) Service of any legal process for or incidental to the recovery of wages, or damages for non-payment thereof, or on any cheque, draft, or order given in respect of such wages, may be effected on the employer by leaving

* 62 Vic. No. 24, *supra*, page 2178.

† 6 Edw. VII. No. 30, *supra*, page 1242.

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such process with or delivering the same to the manager or overseer for the time being of the works or place at or in respect of which such wages have been earned.

This subsection shall not affect any other mode of service allowed by law.

42. (1.) Where an offence for which an employer or contractor is by virtue of this Act liable to a penalty has, in fact, been committed by some agent of the employer or contractor or other person, such agent or other person shall be liable to the same penalty as if he were the employer or contractor.

When agent of employer liable. N.Z. 1908, No. 204, s. 40.

(2.) Where an employer or contractor is charged with an offence against this Act, 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; and if, after the commission of the offence has been proved, the employer or contractor proves to the satisfaction of the court that he has used due diligence to enforce the execution of this Act, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be convicted of such offence, and the employer or contractor shall be exempt from liability, and shall be entitled to recover from the actual offender any reasonable costs he may have been put to.

Employer or contractor exempt from liability on conviction of actual offender.

43. All penalties under this Act may be recovered by complaint in a summary way in accordance with **"The Justices Acts, 1886 to 1909."*

Penalties recoverable summarily. Ib. s. 41.

44. (1.) No person shall be punished as for a second offence under this Act of a like nature to the first offence under this Act unless ten days at the least have intervened between the conviction of such person for the first and the conviction of such person for the second offence; but each separate offence committed by him before the expiration of the said ten days shall be punishable by a separate penalty, as though the same were a first offence.

Provisions as to second and third offences. Ib. ss. 42 to 44.

(2.) If in any proceedings for a penalty under this Act the complainant is not able, or does not see fit, to produce evidence of any previous conviction or convictions, the offender shall be punished for each separate

If no evidence of a previous conviction, offence deemed to be separate.

* 50 Vic. No. 17 and amending Acts, *supra*, page 1132.

offence committed by him against this Act by an equal number of distinct and separate penalties, as though each of such offences were a first or second offence, as the case may be.

Limit of
time for
prosecution.

(3.) No person shall be proceeded against or punished as for a second or as for a subsequent offence after more than six months from the commission of the next preceding offence.

Evidence of
a previous
conviction.

(4.) It shall be sufficient evidence of a previous conviction under this Act if a certificate signed by the proper officer having the custody of the record of such previous conviction, or of the proceedings of the court in which such conviction was obtained, is produced to any court inquiring of a second or subsequent offence, or in any case where it is necessary to prove such previous conviction, in which certificate shall be stated in a compendious form the general nature of the offence for which such previous conviction was had, and the date of such conviction.

It shall not in any case be necessary to prove the signature or official status of the officer signing or giving such certificate, or that the said conviction, was not quashed, or reversed on appeal, or otherwise howsoever.

Partner not
to be liable
in certain
cases.
N.Z. 1908,
No. 204,
ss. 45, 46.

45. (1.) No person shall be liable to be convicted of any offence against this Act committed by his copartner in business, and without his knowledge, privity, or consent; but it shall be lawful, when any penalty or sum for wages, or any other sum, is ordered to be paid under the authority of this Act, and the person ordered to pay the same neglects or refuses to do so, to levy the same by distress and sale of any goods or chattels belonging to any copartnership, concern, or business in the carrying-on of which such wages became due or such offence was committed.

Judgment
and
execution
against
partners.

(2.) In all proceedings to recover any sum due for wages it shall be lawful in all cases of copartnership for the court, at the hearing of any action for the non-payment thereof, to give judgment against any one or more copartners for the payment of the sum appearing to be due; and in such case the service of a copy of the summons or other process upon one or more of such copartners shall be deemed to be service upon all; and any execution or other process may be had and enforced upon any such judgment in accordance with the ordinary law and practice affecting such court.

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46. Nothing in this Act shall be construed—

- (a) To prejudice any other remedy which a worker may have against the contractor in respect of the debt due to him, or, save as expressly provided, to affect any right subsisting under any contract between any contractor and the person employing him; or
- (b) To lessen the security held in respect of work done upon a moveable chattel by a worker, who has a right of a lien thereon and may retain or sell the same in payment of his work; or
- (c) To limit or affect the provisions of **“The Industrial Arbitration Act of 1916”* or any award or agreement thereunder.

Other remedies not to be affected or rights between parties varied.
N.Z. 1908, No. 204, ss. 18, 19.

Not to apply to personal chattels in possession of worker.

47. Nothing in this Act shall authorise the imprisonment of any female.

Females not to be imprisoned.

SCHEDULE I.

[s. 2.]

Number.	Title.	Extent of Repeal.
25 Vic. No. 11	<i>“Masters and Servants Act of 1861”</i>	The whole.
34 Vic. No. 16	<i>“The Wages Act of 1870”</i> ..	The whole.
48 Vic. No. 14	<i>“The Wages Act, 1884”</i>	The whole.

SCHEDULE II.

[ss. 7, 8, 14.]

(1.) NOTICE OF ATTACHMENT.

To [name of employer].

Pursuant to Part II. of *“The Wages Act of 1918,”* take notice that, [name of contractor] being indebted to me [or us] in the sum of £ [or in the sums set opposite our signatures] for wages, you are hereby required to retain in your hands all moneys due or accruing due from you to the said [name of contractor].

Dated this day of , 19 .

A.B., [Worker] .. £ [Amount owing]
C.D., .. £ ..
E. F., .. £ ..

* 7 Geo. V. No. 16, *supra*, page 7538.

Workers' Compensation Acts Amendment Act. 9 GEO. V. No. 21,

(2.) ORDER FOR PAYMENT OF AMOUNT DUE TO WORKER.

In the Court, District.
Between A. B., plaintiff, and C. D., defendant.

To [name of employer], of

The above-named plaintiff having on the day of , 19 , obtained a judgment in this court against the above-named defendant for the sum of £ for wages, you are hereby ordered, under Part II. of "*The Wages Act of 1918*," to pay to the plaintiff the aforesaid amount out of any moneys now due or from time to time becoming due from you to the defendant.

Dated this day of , 19 .

[Seal of Court.]

Clerk of Petty Sessions [or Registrar].

(3.) RECEIPT TO BE GIVEN BY WORKER ON PAYMENT OF HIS CLAIM.

I hereby acknowledge that the sum of £ , due to me by [name of contractor], for which I obtained judgment in the Court at on the day of , 19 , under Part II. of "*The Wages Act of 1918*," has been fully paid by [name of person paying—i.e., contractor or employer].

Dated this day of , 19 .

A.B. [Worker].

9 Geo. V.
No. 21.
THE
WORKERS'
COMPENSA-
TION ACTS
AMENDMENT
ACT OF 1918.

An Act to Amend the Workers' Compensation Acts in certain specified particulars, and to extend the operation of "The Workers' Compensation Act Amendment Act of 1916" by repealing all provisions limiting the duration of the said Act, and for other consequential purposes.

[ASSENTED TO 23RD NOVEMBER, 1918.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

Short title
and
construction
of Act.

1. This Act may be cited as "*The Workers' Compensation Acts Amendment Act of 1918*," and shall be read as one with *"*The Workers' Compensation Act of 1916*," herein referred to as the Principal Act. The

* 6 Geo. V. No. 35 and 7 Geo. V. No. 26, reprinted as amended by this Act, *infra*, Appendix E, page 8745.