

New Zealand.



ANALYSIS.

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1884, No. 19.

Title.

AN ACT for the better Securing of Workmen's Wages.

[6th November, 1884.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Workmen's Wages Act, 1884."

Interpretation.

2. In this Act, if not inconsistent with the context,—

"Workman" means and includes any artisan, labourer, or workman engaged on work or labour to be paid for by the day or by the piece.

"Employer" means any contractor, sub-contractor, or other person employing a workman as herein defined, and in relation to a workman employed by a sub-contractor who is working for or under a contractor includes such contractor.

Workmen suing employer may obtain attachment of moneys due to employer.

3. Any workman whose wages for work and labour remain unpaid for twenty-four hours after the time at which they should have been paid, and after demand has been made, may apply to any Justice of the Peace for a summons calling upon the employer of such workman to appear before a Resident Magistrate to answer the demand; and, at the same time or at any time thereafter, any Justice, on being satisfied by the oath of the workman that the sum to be sued for is due by the workman's employer, may grant leave to the workman to serve

a notice of attachment of moneys, specifying the sum sued for, upon any employer of such workman's employer.

Such notice shall be in the form or to the effect contained in Form A of the Schedule hereto, and, upon service thereof by personal delivery or by registered letter through the post upon any employer of the workman's employer, all moneys in the hands of such last-mentioned persons respectively belonging to or due to the workman's employer, or so much of such moneys as shall be stated in the notice, shall be attached, and shall remain in the hands of the persons holding the same until judgment be given in the case, unless the Resident Magistrate in whose Court the case is to be heard shall otherwise order on the application of any person served with any such notice.

4. No notice of attachment of moneys as aforesaid shall be signed by any Justice of the Peace on behalf of any one workman— Limitation of order.

(1.) For any amount exceeding sixty days' wages, no matter what the amount of the demand may be, or whether such demand be in respect of hourly, daily, weekly, or monthly wages; nor

(2.) If the work in respect whereof the demand is made appears to have been done upon a moveable chattel of such a description that it would be practicable for a workman to have a lien thereon by retaining the same in his possession.

5. The workman, in the event of his obtaining judgment against his employer for the full amount of the wages claimed, or for such amount less any sum which may be proved to be due by the workman to his employer, and not being forthwith paid, may obtain from the Court, and serve upon the persons upon whom he has previously served any notice of attachment of moneys, an order for the payment of his demand in the Form B in the Schedule hereto or to the effect thereof. On obtaining judgment may obtain order for payment of moneys attached.

6. After service of such order and until a discharge for the workman's demand, in the Form C in the Schedule hereto, is produced to, and a copy thereof is left with the person served as aforesaid, such person shall satisfy the workman's demand out of the moneys attached as aforesaid by paying to him, upon his application, the amount of his demand when it becomes payable; but no such payment shall be made to any workman under this section by any person served with any order of payment as aforesaid until the expiration of seven days after the service of such order upon him. Person served with order to pay workman out of moneys attached.

7. All moneys attached as aforesaid shall be paid by the person holding such moneys in priority according to the order of the service of the notices attaching such moneys; but all notices served within seven days of the first of such notices of attachment upon the same person shall be deemed to be served simultaneously, for the purpose of securing the equal distribution of the moneys attached amongst all workmen serving such notices within the aforesaid seven days. Demands of workmen to be paid according to priority of notice.
Notices served within seven days deemed to be simultaneous.

8. All demands for wages of workmen 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 any person are insufficient to meet them, in which case they shall abate in equal proportions between themselves. Simultaneous notices to rank equally among themselves.

Person served with notice liable only for amount due by him to workman's employer.

On failure to pay workman may sue person served with notice.

On satisfaction of demand attachment of moneys to cease to operate.

Workman upon payment to sign a discharge.

No payment in advance to be made for work under construction.

Wages outstanding to be first charge on money due to contractor.

Act not to affect other remedies or vary rights between parties.

Repeal.

Schedule.

9. Any person served with an order for payment of moneys under this Act shall not be liable to make good any demand made upon him to a greater extent than the sum which is in his hands due and owing at the time of the service of such notice to the employer of the workman at whose suit the demand is made.

10. If the person served with notice of attachment and order for payment shall fail to pay as aforesaid, the workman may sue for and recover in his own name the moneys attached, by any proceeding which his employer might have taken had there been no attachment under this Act, subject to any defence which would have been available against his employer in such proceeding, except a defence founded on the act of the person served with notice of attachment of moneys, after service upon him of such notice.

11. Upon satisfaction by any other means than as aforesaid of the whole or any part of the workman's demand mentioned in any order for payment under this Act, or on the setting aside of the judgment in respect of which any such order is given, any attachment of moneys effected under this Act in respect of such demand shall cease to be operative in whole or in part, but without prejudice to any *bonâ fide* payment or other dealing by the person served with an order for payment in accordance with such order, previous to his receiving notice and sufficient evidence of such satisfaction, or setting aside of judgment.

And so far as may be necessary to such payment or other dealing, the said attachment and order for payment shall continue in force.

12. The workman shall, upon the request of the person paying to him the demand specified in any order for payment under this Act, and at the time of receiving the same, sign a discharge therefor, in the Form C in the Schedule hereto.

13. No contractor for whom any work is being done shall pay any sub-contractor in advance or beforehand for any such work, unless such advance or beforehand-payment is applied towards the payment for material to be used in the work to be done.

14. The wages that may be outstanding on any contract or undertaking shall be a first charge upon any money in the hands of the contractee which has accrued or may accrue and become due to the contractor on account of such contract or undertaking.

15. Nothing in this Act contained shall be construed to prejudice any other remedy which a workman may have against his employer in respect of the debt due to him, or, save as expressly provided, to affect any right subsisting under any contract between any employer of labour and the person employing him.

16. "The Contractors' Debts Act, 1871," is hereby repealed.

SCHEDULE.

FORM A.

NOTICE OF ATTACHMENT OF MONEYS.

In the Court, District.

Between A.B., plaintiff, and C.D., defendant.

To E.F., of
ON the application of A.B., the plaintiff, you are hereby required to retain in your hands until judgment in this case, or as the above-mentioned Court otherwise

orders, all moneys due or accruing due from you to the said C.D., or if the same shall exceed pounds, then pounds thereof.

Dated this day of , 18 .

M.N.,
Justice of the Peace.

FORM B.

ORDER FOR PAYMENT OF MONEY.

In the Court, District.

Between A.B., plaintiff, and C.D., defendant.

To E.F., of

TAKE notice that, having obtained a judgment in the above-named Court against C.D., the defendant, for the sum of pounds as wages for work and labour done [or for materials furnished for work], who has failed to pay me such wages, you are hereby required, under "The Workmen's Wages Act, 1884," to pay me on demand the aforesaid amount out of any moneys now due or from time to time becoming due from you to the said C.D.; and, on your failing so to do, you will be liable to legal proceedings under the said Act, at my suit, to obtain payment.

As witness my hand this day of , 18 .

A.B.,
Workman.

FORM C.

RECEIPT FOR MONEY AND DISCHARGE OF LIABILITY.

I HEREBY acknowledge that the sum of pounds, due to me by C.D., for which I obtained a judgment, dated the day of , 18 , under "The Workmen's Wages Act, 1884," has been fully discharged.

As witness my hand this day of , 18 .

A.B.,
Workman.