

Uganda

## Minimum Wages Advisory Boards and Wages Councils Act Chapter 221

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## Uganda

# Minimum Wages Advisory Boards and Wages Councils Act

## Chapter 221

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**An Act to provide for the establishment of minimum wages advisory boards and wages councils, and for the regulation of the remuneration and conditions of employment of employees.**

### 1. Application

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

### 2. Interpretation

- (1) In this Act, unless the context otherwise requires—
- (a) **"authorised officer"** means the labour commissioner and any other person appointed by the Minister for carrying into effect the provisions of this Act;
  - (b) **"board"** means a minimum wages advisory board established under [section 3\(1\)](#);
  - (c) **"council"** means a wages council established under [section 7](#);
  - (d) **"employee"** includes an apprentice and a learner;
  - (e) **"employer"** means any person who has entered into a contract to employ any other person, and the agent, foreman, manager, recruiter or factor of the employer;
  - (f) **"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;
  - (g) **"statutory minimum remuneration"** means any remuneration fixed by a wages regulation order;
  - (h) **"wages council order"** means an order made under [section 7](#) establishing a wages council;
  - (i) **"wages regulation order"** includes any order made by the President under [section 6\(6\)](#) and any order made by the Minister under [section 9\(4\)](#) or [13](#);
  - (j) **"wages regulation proposals"** includes recommendations made by a board under [section 3](#) and proposals made by a council under [section 7](#).
- (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.

### 3. Establishment of minimum wages advisory boards and board inquiries and recommendations

- (1) The Minister may, from time to time, by notice duly published, appoint a minimum wages advisory board for any specified area or for any employees or groups of employees in any occupation in which he or she considers that it may be desirable to fix a minimum wage and to determine other conditions of employment.
- (2) 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 [section 4](#) 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. General provisions as to minimum wages advisory boards

- (1) The First Schedule to this Act shall have effect with respect to the constitution, officers and proceedings of a board.
- (2) Where any matter is referred under [section 3](#) to a board, the board shall make all such investigations as appear to it to be necessary or desirable.
- (3) 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, and shall be entitled to like expenses as if they had been summoned to attend at such court on a criminal trial, if the expenses shall be allowed by the board, but the board may disallow the whole or any part of such expenses in any case if it thinks fit.
- (4) Orders for the payment of such witnesses shall be made as nearly as may be as orders are made for the payment of witnesses in the High Court, and shall be paid in such manner as the Minister may direct.
- (5) Every person refusing or omitting, without sufficient cause, to attend at the time and place mentioned in the summons served on him or her, and every person attending, but leaving a board without the permission of the board, or refusing without sufficient cause to answer, or to answer fully and satisfactorily, to the best of his or her knowledge and belief all questions put to him or her by or with the concurrence of the board, or refusing or omitting without sufficient cause to produce any books, plans or documents in his or her possession or under his or her control, and mentioned or referred to in the summons served on him or her, and every person who at any sitting of the board wilfully insults any member of a board, or the secretary, or wilfully interrupts the proceedings of a board, commits an offence and is liable on conviction to a fine not exceeding one thousand five hundred shillings; but no person giving evidence before a board shall be compelled to incriminate himself or herself, and every such person shall, in respect of any evidence given by him or her before a board, be entitled to all the privileges to which a witness giving evidence before the High Court is entitled in respect of evidence given by him or her before that court.

### 5. Duties and powers of boards

- (1) A board appointed under this Act shall, subject to and in accordance with this section, have power to recommend the minimum rates of wages to be paid to employees 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.
- (2) The board shall have power to recommend minimum rates of wages for any such employees who are learning an occupation; in making any such recommendation the board may, if it thinks it

expedient so to do, attach to the fixing of the minimum rate such conditions as it thinks necessary for securing the effective instruction of those employees in their occupation, and if any such condition so attached is not complied with in the case of any employee, he or she shall be deemed not to be an employee learning an occupation.

- (3) The board shall have power to recommend the minimum overtime rates of wages in respect of hours worked on any day or in any week in excess of the number of hours declared by the board to be the normal number of hours of work for that day or for that week for all or any employees.
- (4) The board shall have power to recommend the minimum holidays with pay to be allowed by their employers to employees.
- (5) Subject to the Employment Act, the board shall have 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.
- (6) The board shall have power to recommend that a wage should be subject to periodical increments.
- (7) The board shall have power to recommend 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.
- (8) The board shall have power to recommend minimum rates for piece work whether undertaken by an employee on the premises of any employer or by an outworker.
- (9) The board shall have power to recommend, where it so deems necessary, that a council should be established for employees or groups of employees in any area or occupation in respect of which the board has been appointed under [section 3\(1\)](#).
- (10) The powers conferred on the board under this section may be exercised in relation to—
  - (a) all employees;
  - (b) employees in any special process;
  - (c) employees in any special area;
  - (d) any class of employee;
  - (e) any class of employee in any special process; or
  - (f) any class of employee in any special area, being employees or a class of employees coming within the terms of reference of the board.

## 6. Board wages regulation proposals

- (1) A board after having made such investigations as have appeared to it to be necessary and desirable shall forward to the Minister wages regulation proposals in accordance with [section 3\(2\)](#).
- (2) The Minister on receipt of any wages regulation proposals forwarded to him or her under subsection (1) may—
  - (a) approve the proposals; or
  - (b) return the proposals to the board with such comments on them as he or she thinks desirable.
- (3) The board on receipt of any wages regulation proposals returned to it under subsection (2)(b) shall reconsider the proposals in the light of the Minister's comments and shall resubmit them to the Minister either with or without amendments.
- (4) If the Minister approves any wages regulation proposals under subsection (2)(a) or on receipt of any such proposals under subsection (3), he or she shall publish the proposals and shall invite representations from the public on the proposals.

- (5) At any time after thirty days from the publication of any wages regulation proposals under subsection (4), the Minister shall submit the proposals together with his or her own recommendations and any representations made to him or her on the proposals to the President; but the Minister may before submitting the proposals to the President invite the board to comment on any representations received on the proposals from members of the public.
- (6) The President may on receipt of any wages regulation proposals under subsection (5) accept or vary the proposals and give effect to the proposals as accepted or varied by him or her by statutory order duly published, from such date as may be specified in the order, or may reject the proposals.

## 7. Establishment of wages councils

- (1) Notwithstanding sections 3 and 4, if the Minister is of the opinion that no adequate machinery exists for the effective regulation of the wages or conditions of employment of any employees in any particular trade, industry or occupation, he or she may, by statutory order duly published, establish a wages council which shall submit to him or her wages regulation proposals as to the remuneration that should be paid and the conditions of employment that should be provided for those employees.
- (2) The Second Schedule to this Act shall have effect with respect to the constitution, officers and proceedings of councils.
- (3) A council may make recommendations to the Minister in any wages regulation proposals in relation to all or any of the matters set out in [section 5](#).
- (4) The provisions of [section 4](#)(3), (4) and (5) shall apply to proceedings held by a council, and a council shall have all the powers under those provisions of a board.

## 8. Procedure in making of wages council orders

- (1) Before making a wages council order, the Minister shall publish a notice of his or her intention to make the order, specifying a place or places where copies of a draft of the order may be inspected and a time (which shall not be less than thirty days from the date of the publication) within which any objection to the draft order shall be sent to the Minister.
- (2) Every objection shall be in writing and addressed to the Minister and shall state the specific grounds of objection to the order and any omissions, additions or modifications to the order asked for.
- (3) If there are no objections submitted in the required time, or if after considering all objections duly submitted the Minister is of the opinion that the objections are not such as to warrant modifications or will be met by modifications which he or she proposes to make under this subsection, he or she may make the statutory order either in terms of the draft or subject to modifications which, in his or her opinion, do not affect important alterations in the character of the draft order as published.
- (4) Where the Minister does not proceed under subsection (3), he or she may, if he or she thinks fit, withdraw the draft order or amend it; and if he or she amends it otherwise than in accordance with subsection (3), all the provisions of this section shall have effect in relation to the amended draft order as they have effect in relation to an original draft order.
- (5) Where the Minister makes a wages council order he or she shall publish it, and the order shall come into operation on the date on which it is published in the *Gazette* or on such later date as is specified in the order.

## 9. Procedure of councils

- (1) Before submitting any wages regulation proposals to the Minister, a council shall make such investigations as it thinks fit and shall publish a notice of the intention to submit proposals, stating

the place where copies of the proposals may be obtained and the period, not being less than thirty days, within which written representations with respect to the proposals may be sent to the council.

- (2) The council shall consider any written representations made to it within the period specified in subsection (1) and shall make such further inquiries as it considers necessary and may then submit the proposals to the Minister either without amendment or with such amendments as it thinks fit, having regard to the representations.
- (3) Where wages regulation proposals have been submitted to the Minister by a council, the Minister may, if he or she thinks fit, refer the proposals back to the council; and the council shall thereupon reconsider them having regard to any observations made by the Minister, and may, if it thinks fit, resubmit the proposals to the Minister either without amendment or with such amendment as it thinks necessary having regard to those observations.
- (4) When wages regulation proposals have been submitted or resubmitted to the Minister under subsection (3), the Minister shall either give effect to the proposals by order duly published from such date as may be specified in the order or reject the proposals.

## **10. Wages regulation orders**

- (1) The date to be specified under sections 6(6) and 9(4) shall be a date subsequent to the date of the wages regulation order; and where the date so specified does not correspond with the beginning of the period for which wages are paid, the wages regulation order shall in respect of any employee affected become operative from the beginning of the next such period following the date specified in the order.
- (2) The Minister shall cause the wages regulation order to be published for the purpose of informing, so far as practicable, all persons who will be affected by it.

## **11. Boards and councils may reconsider recommendations**

- (1) A board or council may at any time, if it thinks it expedient, reconsider and recommend to the Minister the cancellation or variation of any rate of remuneration, or other conditions of employment determined under this Act.
- (2) Such recommendations shall be treated as if they were wages regulation proposals and shall be dealt with accordingly.

## **12. Dissolution of boards and councils**

- (1) The Minister may at any time by notice in the *Gazette* dissolve a board or council.
- (2) Any such dissolution shall be without prejudice to any acts or recommendations of the board or council made prior to its dissolution.

## **13. Agreements and arbitration awards**

Where the parties to any agreement or arbitration award relating to remuneration or conditions of employment have mutually agreed to do so, they may forward the agreement or award to the Minister who may make a statutory order regulating remuneration or conditions of employment in the terms of the agreement or award and shall cause the order to be published in the *Gazette*; and from the date of the publication or the other date as the order may prescribe, the order shall have effect as though it had been a wages regulation order made as a result of wages regulation proposals by a board or council.

## **14. 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 fails to pay to an employee to whom a wages regulation order applies remuneration not 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 shillings for each offence, and where the employer or other person charged as a person to whose act or default the offence was due has been found guilty of an offence under this section consisting of failure to pay remuneration not less than the statutory minimum remuneration, the court may 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 so paid.
- (3) Where proceedings are brought under subsection (2) in respect of an offence consisting of a failure to pay remuneration not less than the statutory minimum remuneration, then, if notice of intention so to do has been served with the summons, warrant or complaint—
  - (a) evidence may be given of any like contravention on the part of the employer in respect of any period during the twelve months immediately preceding the date of the offence; and
  - (b) on proof of the failure, the court may 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 during that period to the employee by way of remuneration if the provisions of this Act had been complied with, and the amount actually so 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.

## **15. Powers of authorised officers to institute proceedings**

An authorised officer may, if it appears to him or her that a sum is due from an employer to an employee by reason of a failure to pay remuneration not less than the statutory minimum remuneration, institute on behalf of and in the name of that employee proceedings by civil suit for the recovery of that sum.

## **16. Permits to infirm and incapacitated persons**

If the labour commissioner is satisfied that any person employed or desiring to be employed, in such circumstances that a wages regulation order applies or will apply to him or her, is affected by any infirmity or physical injury or disablement, the labour commissioner may, if he or she thinks fit, issue to such a person, subject to such terms, if any, as he or she may determine, a permit exempting the employer of the person from the provisions of this Act relating to the payment of the statutory minimum remuneration or observance of conditions of employment, and while the permit is in force, an employer shall not be liable to any penalty for paying remuneration to the person employed at a rate less than the statutory minimum remuneration or observing such conditions so long as any terms determined by the labour commissioner on the grant of the permit are complied with; but if in the opinion of the labour commissioner there exists in any such occupation an organisation representing a substantial proportion of the persons employed in the occupation, the labour commissioner shall act only in consultation with that body.

## **17. Employers not to receive premiums**

- (1) Where an employee to whom a wages regulation order applies is an apprentice or learner, it shall not be lawful for his or her employer to receive directly or indirectly from him or her, or on his or her behalf or on his or her account, any payment by way of premium; but nothing in this subsection shall apply to any such payment duly made in pursuance of any valid instrument of apprenticeship.



- (2) If any employer acts in contravention of this section, he or she commits an offence and is liable on conviction in respect of each offence to a fine of five hundred shillings; and the court may, in addition to imposing a fine, order him or her to repay to the employee, or other person by whom the payment was made, the sum improperly received by way of premium.

## 18. Records and notices

- (1) The employer of any employees to whom a wages regulation order applies shall keep such records in the English language as shall be prescribed, and the records shall be retained by the employer for two years.
- (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 any wages regulation proposals or wages regulation order affecting them, and, if it is so prescribed, shall give notice in any other prescribed manner to the employees of the matters.
- (3) If an employer fails to comply with any of the requirements of this section, he or she commits an offence and is liable on conviction in respect of each offence to a fine not exceeding five hundred shillings.

## 19. Powers of authorised officers

- (1) Where a minimum rate of wages and other conditions of employment have been determined in accordance with this Act and become effective in respect of any person or persons, every authorised officer shall have power—
  - (a) to require the production of wages sheets or other records of wages kept by an employer, and records of payments made to outworkers by persons giving out work, and any other such records as are required by this Act to be kept by employers, and to inspect and examine those sheets or records and copy any material part of them;
  - (b) 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, as the case may be, and with respect to the payments to be made for the work;
  - (c) at all reasonable times, to enter any premises at which an employer to whom a wages regulation order applies carries on his or her business, including any place used in connection with that business for giving out work to outworkers and any premises which the authorised officer has reasonable cause to believe to be used by or by arrangement with the employer to provide living accommodation for employees;
  - (d) to inspect and copy any material part of any list of outworkers kept by an employer or persons giving out work to outworkers.
- (2) An authorised officer may institute proceedings for any offence and may conduct any prosecution under this Act.
- (3) An authorised officer shall not disclose any information obtained in the exercise of the powers conferred by this section without the consent of the employer concerned otherwise than in connection with the execution of this Act; any authorised officer contravening this subsection commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment; but nothing in this subsection shall apply to a disclosure of any information made for the purpose of any criminal proceedings which may be taken by virtue of this Act or otherwise.
- (4) Every authorised officer shall be furnished by the labour commissioner with a certificate of his or her appointment or authority so to act and when so acting shall, if so required by any person affected, produce the certificate to him or her.

**20. Penalty for obstruction of authorised officers**

Any person who obstructs an authorised officer in the exercise of any power conferred by this Act or refuses to comply with any requirement of such an officer made in the exercise of any such power commits an offence and is liable on conviction to a fine not exceeding five hundred shillings.

**21. Penalty for false entries or records, etc.**

If any person 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 five hundred shillings or to imprisonment for a term not exceeding three months or to both.

**22. Void agreement**

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

**23. 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.

**First Schedule (Section 4)****Constitution, officers and proceedings of minimum wages advisory boards**

1. A board shall consist of three persons appointed by the Minister, one of whom shall be appointed to act as chairperson; except that the Minister in his or her discretion may appoint, as additional members of the board, not more than two representatives of employers and an equal number of representatives of employees directly connected with the area or occupation in relation to which the board is to operate.
2. The Minister may appoint an alternate to the chairperson or any other member of a board.
3. Before making any appointment under the exception clause of paragraph 1 of this Schedule, the Minister shall consult any organisations appearing to him or her to represent employers or, as the case may be, employees, connected with the area or occupation with which a board is concerned.
4. The chairperson of a board may appoint such number of persons as he or she thinks fit as assessors.
5. Assessors shall be persons who, in the chairperson's opinion, have an expert knowledge of any of the matters with which the board's inquiry is concerned.
6. An assessor shall not vote or otherwise be a party to any report or recommendation of a board.
7. The Minister may appoint a secretary and such other officers as he or she thinks fit to a board.
8. The secretary and other officers shall not be members of the board.
9. The chairperson of any meeting of a board shall have an original vote and, when the votes are equally divided, a casting vote in addition to his or her original vote.
10. The Minister may make rules as to the meetings and procedure of a board, including rules as to the quorum; but subject to this Act and to any rules so made, a board may regulate its procedure in such manner as it thinks fit.

11. There shall be paid to members of and assessors to a board such remuneration and such travelling and other allowances as the Minister may approve, and all such remuneration and allowances shall be paid out of monies provided by Parliament.

## **Second Schedule (Section 7)**

### **Constitution, officers and proceedings of wages councils**

1. A council shall consist of not less than five persons appointed by the Minister of whom—
  - (a) not more than three persons shall be independent members;
  - (b) such number of persons as the Minister may deem fit shall represent organisations of employers or employers who have no trade organisation;
  - (c) a number of persons equal to those appointed under subparagraph (b) of this paragraph shall represent organisations of employees or employees who have no trade organisation.
2. Of the persons appointed under paragraph 1(a) of this Schedule, one shall be appointed by the Minister to act as chairperson and another shall be appointed by the Minister to act as deputy chairperson in the absence of the chairperson.
3. Before making any appointment under paragraph 1(b) or (c) of this Schedule, the Minister shall consult any organisations appearing to him or her to represent employers or, as the case may be, employees concerned.
4. The Minister may appoint a secretary and such other officers of a council as he or she thinks fit.
5. The secretary and other officers shall not be members of the council.
6. The chairperson at any meeting of a council shall have an original vote and, when the votes are equally divided, a casting vote in addition to his or her original vote.
7. A council may, if it thinks fit, delegate any of its powers under this Act (except the power to submit wages regulation proposals) to a committee consisting of such number of persons being members of the council, as the council thinks fit; except that the members of the committee representing employers and members of the committee representing employees shall be equal in number.
8. The Minister may make rules as to the meetings and procedure of a council and of any of its committees, including rules as to the quorum and the method of voting, but subject to this Act and to any rules so made, a council or a committee of the council may regulate its procedure in such manner as it thinks fit.
9. There may be paid to any member of a council appointed under paragraph 1(a) of this Schedule such remuneration, and to any member of any such council, such travelling and other allowances as the Minister may approve, and all such remuneration and allowances shall be paid out of monies provided by Parliament.