

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1935**

The Payment of Wages Bill

List of Reports of Joint and Select Committees
presented to the Legislative Assembly in 1935.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks
1.	The Indian Mines (Amendment) Bill.	5. 3.1935.	
2.	The Payment of Wages Bill.	2. 9.1935.	
3.	The Code of Criminal Procedure(Amendment)Bill (<u>Amendment of Section 406</u>).	4. 9.1935.	
4.	The Code of Civil Procedure(S Second Amendment) Bill(<u>Insertion of New Section 44A</u>).	18. 9.1935.	
5.	The Cantonments (Amendment) Bill.	24. 9. 1935.	

LEGISLATIVE ASSEMBLY.

We, the undersigned, members of the Select Committee to which the Bill to regulate the payment of wages to certain classes of persons employed in industry was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

We desire to acknowledge the valuable assistance given to us by Mr. N. A. Mehrban, Assistant Commissioner of Labour, Bombay, who attended our sessions and placed at our disposal his intimate knowledge on the subject of payment of wages.

Clause 1.—In sub-clause (4) we have deleted the words which exempted the railways, other than railway factories, from the operation of the provisions relating to prompt payment. In place of this we have modified clause 5 so as to enable the Government of India to exempt railway services to the extent that may be necessary.

In sub-clause (5) we have deleted the words which would have enabled Local Governments in extending the provisions of the Act to do so in a relaxed form.

We have raised the limit of wages in sub-clause (6) from one hundred to two hundred rupees.

Clause 2.—We have recast the definition of "industrial establishment" and enlarged it by including inland steam-vessels, tramways, and docks, wharves and jetties. We have also revised the definition of "wages". It seemed to us that in its original form it would have made it possible for an employer to circumvent the provisions relating to deductions by attaching conditions to the payment of wages, in whole or in part, and forfeiting substantial sums for non-fulfilment of such conditions. Our revised definition is designed to include in wages everything which the workman would receive if he fulfilled all the conditions while section 7 ensures that deductions, for non-fulfilment of the conditions or for other reasons, are limited to those permitted by the Bill.

Clause 3.—We have recast this clause. One object of the redraft is to make it clear that the employer or other person need not pay wages personally, but is responsible for their payment. In respect of contractors, the intention is that the contractor should be responsible for payment where he undertakes actual work for the principal employer and is in charge of the labour, and that the principal employer or his manager should be responsible where the contractor merely contracts for the supply of labour to the employer.

Clause 4.—The change places the responsibility on the person responsible for the payment of wages.

Clause 5.—Sub-clause (1) formerly provided for the payment of wages within seven days but allowed an extension, where the seventh day was not a working day, to the first working day thereafter. We consider that extension undesirable and have not only deleted the reference to it, but have,

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by providing for payment on a working day, further reduced the period that will be available in some cases. At the same time, we have, by a majority, allowed three additional days for large establishments.

We have omitted the original sub-clause (3) which gave Local Governments the power of exemption and have in place of this modified clauses 15 and 21 so as to secure the employer against penalty where he could not reasonably have complied with the provision.

The new sub-clause (3) has been explained in the note on clause 1. The new sub-clause (4) is designed primarily to secure that holidays are not rendered incomplete by the necessity of the employee attending the factory or other establishment.

Clause 6.—We consider that in industry the payment of wages in kind lends itself to abuse and that the practice, prevalent in a few factories, of paying in grain, should now be stopped. We have therefore added this provision.

Clause 7 (formerly clause 6).—We have restricted the list in sub-clause (2) to a definition of the types of permissible deduction and have removed certain substantive prescriptions formerly included here to other clauses. We have added a provision for deductions on account of absence as, particularly with our revised definition of wages, the employer would otherwise have been obliged to pay wages to men who failed to appear for work. Conditions to govern such deductions are contained in the new clause 9.

Clause 8 (formerly clause 7).—The Bill originally gave Local Governments the power to prescribe the acts or omissions for which fines could be imposed. We consider that this would be an invidious task and that the prescription of official lists might encourage some of the numerous employers who never impose fines to institute the practice. We have therefore left it to employers to frame their lists and to secure official approval. Where no list is submitted, no fines will be legal.

In sub-clause (4) we have substituted "wage-period" for "month" as the original provision would have given serious difficulty in administration where the wage-period is less than a month.

We have provided in this and in clause 10 for the right of explanation by the workmen and for a procedure in imposing fines and deductions, as well as their entry in a register. We consider it desirable that the procedure should include the supply to the workmen of a written statement giving particulars of the deduction and the reason for it.

Clause 9.—See note on clause 7.

Clause 10 (formerly clause 8).—See note on clause 8.

Clause 11 (formerly clause 9) and *Clause 13.*—The concluding part of clause 11 and the whole of clause 13 represent transfers, with minor modifications, of prescriptions formerly embodied in clause 6(2).

Clause 12.—Most of this clause represents a transfer from the former clause 6(2); but following a recommendation of the Royal Commission on Labour we have added a prohibition of the recovery of travelling expenses.

Clause 14 (formerly clause 11).—The alteration in sub-clause (2) is designed to enable Government to appoint persons who are independent of the railway authorities and some of us consider that only such persons should be appointed.

Clause 15 (formerly clause 12).—We have defined the qualifications of the authority to be appointed on applications.

By a majority, we have given the authority power to extend the period laid down by sub-clause (2); some of us would have preferred to fix the period at a year instead of six months.

We were equally divided regarding the desirability of retaining sub-clause (5), but have agreed that if it is to be retained, there should be provision for an appeal and have modified clause 17 accordingly.

Clause 16 (formerly clause 13).—Sub-clause (3) has been added to secure expedition.

Clause 17 (formerly clause 14).—We have specified the appellate authorities. See also note on clause 15.

Clause 19.—This is designed to preserve the employed person's right to recover wages, and enables him to recover compensation, from his employer.

Clause 20 (formerly clause 16).—See note on clause 26.

Clause 21 (formerly clause 17).—See note on clause 5.

Clause 25.—We have added this clause.

Clause 26 (formerly clause 10).—We have transferred the power to prescribe the procedure of the tribunals to the Government of India as we consider that there is no need for provincial variations, and we have provided for three months' previous notice of rules so as to ensure adequate consultation with the interests concerned.

Sub-clause (4) reproduces part of the former clause 16 (2) in such a form that the penalty can be adjusted to the offence. We have doubled the maximum penalty.

The other changes are mostly consequential.

2. The Bill was published in the Gazette of India, dated the 16th February, 1935.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

N. N. SIRCAR.

F. NOYCE.

*H. P. MODY.

*N. M. JOSHI.

SYED GHULAM BHIK NAIRANG.

A. G. CLOW.

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R. D. DALAL.

J. A. MILLIGAN.

A. AZIZ.

Dated the 1st June, 1935.

MINUTES OF DISSENT.

I have various objections to the Bill as it has emerged from the Select Committee, but in this Minute of Dissent, I shall confine myself to just a few matters of importance.

2. *Clause 7(2).*—Clause 7(2) of the Bill gives a list of the deductions which may be made from wages. This list does not include forfeiture of wages in lieu of notice, and thus takes away the right which an employer now has under the terms of any special contract he may have with his workman, of deducting the amount of such forfeiture from the wages due. The question was discussed at great length by the Bombay Strike Enquiry Committee presided over by Mr. Justice Fawcett, and they held that “if any permanent operative leaves service without notice, he shall be liable to forfeit by way of liquidated damages, at the discretion of the Manager, the whole or part of the wages due to him for the 14 days immediately prior to his so leaving”. As far as the Bombay Mills are concerned the right of forfeiture has not been exercised except in very special circumstances, but that is no reason why it should be abolished altogether. It was argued in the Select Committee that an employer would not be penalised by the omission of this type of deduction from the list of permissible deductions from wages since he would have his remedy at common law, and could sue the workman for breach of contract. I maintain that the common law remedy, to which the Select Committee referred, is no remedy whatsoever in the case of a workman in India who, on leaving employment without notice, is, more often than not, absolutely untraceable, and even if traceable, cannot be made to pay for the loss suffered by the employer owing to the breach of contract which has taken place. In the circumstances, the best method of recovering the compensation due to the employer for the operative's failure to give the prescribed notice would be by means of a deduction from the wages due to him. If the Bill is passed into law as it stands employers in future would be justified in withdrawing the reciprocal privilege which workmen now enjoy, at least in the Bombay Cotton Textile Industry, of receiving 14 days notice, or 13 days wages, before their employment can be terminated. There are several ways in which this can be done, and it would mean a reversion to the old system which would be deplorable.

3. The next point I desire to make in connection with this clause is the absence from the list of permissible deductions of a clause authorizing recovery of cost of cloth damaged by the operative on account of his own negligence. The Bill contemplates a fine for bad and defective workmanship, but the total amount of fine which may be imposed on an operative in any one month is not to exceed half an anna in the rupee of his total monthly wage. This limit is very low; on account of the diversification in production which has taken place in the Textile Industry as a result of the Noyce Committee's recommendations, the value of cloth at present passing through the hands of the operative is much more than it was a few years ago, and the small amount of fine contemplated in the Bill would neither bear any proportion to the monetary value of the damage inflicted, nor

act as a deterrent to bad or careless workmanship. This question was also discussed before the Fawcett Enquiry Committee, who held that “it would be clearly unreasonable for the employer not to have power to recover compensation for damage caused by the negligence of a weaver, by fine or deduction from wages”. They further stated that “the limit of 2 per cent. of an operative's total earnings for a month (imposed in the Millowners' Association's then Standing Orders for Operatives) would be too small to cover such losses in most cases”, and therefore suggested that “a separate provision should be made for fines for damaged cloth which should be fixed on a compensatory basis not exceeding the estimated loss to the mill owing to the damage”. This recommendation was subsequently accepted by the Millowners' Association, and a rule was framed which in its operation has been found to work very well in Bombay, and has created no hardship. Even the Whitley Commission recommended that “the law should provide that deduction should in no case exceed the wholesale price of the goods damaged”. My contention, therefore, is that the limit of fine in case of bad workmanship is altogether inadequate, and falls far short of the authoritative findings of two expert committees.

4. Another issue arises out of the list of permissible deductions included in clause 7(2). I see from the notes appended against clause 6 that “the practice prevalent in a few factories of paying in grain should now be stopped”. Does this mean that the cost of grain, cloth, etc., supplied to the operative by the employer would not be a deduction admissible under clause 7(2)? If so, grain and cloth shops, canteens and the like which have been established by many mills for the benefit of their operatives, and which serve a really useful purpose, might have to be closed down, and extortionate money-lenders and shop-keepers might take their place.

5. Clause 8(8) lays down that fines realized “shall be *applied only* to such purposes beneficial to the persons employed in the factory as are approved by the prescribed authority”. According to the Standing Orders for Operatives laid down by the Millowners' Association, Bombay, all fines imposed are credited to a Welfare Fund, and utilized for such benefit or benefits to the operatives as the Mill Company may determine. Discretion in the matter of utilizing such amounts must rest with the employer. After all, when a fine is imposed, it necessarily follows that the employer has suffered at least a corresponding financial loss, and it is, therefore, really his money which is credited to the Fund, and provided it is spent for the benefit of the workpeople, there should be no outside interference at all.

6. I may add that, in the views I have expressed with regard to fines for bad workmanship, deductions for supplies to workmen and the manner of the utilization of fines, I have the concurrence of a number of employers' organizations in various parts of India.

H. P. MODY.

Section 1, Clause (4).—We feel that the Bill is too limited in its application; it should be made applicable to all factories and workshops where twenty or more persons are employed.

Section 2, Clause (ii).—We are of the opinion that the Act should apply directly to industries such as docks, tramways, oil wells and plantations including in the last category sugar plantations wherever such are run by sugar mills, and to seamen.

Section 4 (2).—We are of the view that the Government of India should have accepted the recommendation for the general adoption of a system of weekly payments, made by the Royal Commission on Labour. If the immediate adoption of the system of weekly payments is regarded as not practicable, we recommend the adoption of at least a fortnightly wage payment system, wherever Trade Unions prefer it.

Section 5, Clause (1).—We do not agree with the change made by the majority of the Committee in allowing a ten days' maximum period for payment of wages in factories employing more than a thousand people.

Section 5, Clause (2).—We state it as our view that where the employment of any person is terminated by or on behalf of the employer, the wage earned by him should be paid on the day of discharge.

As regards payment of wages to heirs of deceased workers, some easy and prompt method of payment should be devised.

In the case of unclaimed wages, facilities should be provided for payment when the claim is made even after a period of six months. If the sum is not claimed within three years, then it should be credited to a fund to be spent for the welfare of the workers.

Section 6.—Most of us are of the view that fines should be abolished altogether.

Section 6, Clause (2A).—We feel it is necessary to define the word "fine" to avoid any misunderstanding as fines may be both direct and indirect; "Fine" may be, therefore, defined as any monetary loss suffered by an employee by way of reduction in the rate of pay temporarily or permanently in the same grade or scale of pay or deduction of part or the whole of gratuity or employers' contribution to the provident fund or of any allowance, as a penalty.

Section 6 (2) (k).—Most of us are of the view that deductions on account of insurance premium of companies approved by the Government and also contributions towards trade union subscriptions may be permitted so long as the workers express their willingness voluntarily in favour of such deductions.

Section 7, Clause (B).—We are of opinion that provisions should be made to give the employee an opportunity of being heard through a representative of the trade union of which he is a member or any other person whom he may appoint in this behalf. This will be in accordance with the spirit of the recommendations of the Royal Commission on Labour.

Section 7 (3).—If the retention of fines should be insisted upon, we advocate that the imposition of fine should not exceed an amount equal to a quarter of an anna in each rupee of wages earned by a worker in a month. It is an admitted fact that low paid workers do not get an adequate living wage in this country. We suggest, therefore, that a worker getting Rs. 15 or less a month should not be fined.

Section 7 (7).—In our view, the funds accruing from the realisation of fines should be administered by a Joint Committee consisting of representatives of the employers and of Trade Unions wherever such exist, and in their absence, of representatives elected by workers.

Section 8.—The suggestion made by us under section 7, clause (3), may be adopted under this section also.

Section 10 (g). We recommend that the court fees in respect of any proceedings under this Act should not exceed what is provided for in the Workmen's Compensation Act or a maximum of Rs. 5 whichever is less.

Section 12, Clause 3.—We recommend that the words "error or" should be deleted and 'bona fide dispute' to be retained, as we fear that the word 'error' is liable to be misinterpreted and misconstrued.

Section 12, Clause (5).—We are of opinion that the penalty provided for in this section should be only in respect of applications made out of malice and we recommend the deletion of the words 'or vexatious' because they are vague and not capable of proper definition. We are further of opinion that the penalty should not exceed Rs. 25.

The reference in this Minute of Dissent to the clauses of the Bill are as in the Bill as referred to the Select Committee.

S. SATYAMURTI.

B. B. VARMA.

V. V. GIRI.

S. K. HOSMANI.

MOHAN LAL SAKSENA.

A. N. CHATTOPADHYAYA.

N. M. JOSHI.

Section 1 (5).—I would give Local Government power to extend the application of the Act to any industry or occupation.

Section 3.—I am not sure whether provision is made in this section for the payment of wages by the employers directly to Budlis or substitute workers.

Section 5.—When the employment is terminated by the employee with due notice or when he goes on leave, his wages should be paid on the day on which he terminates his service or on the last working day before his leave begins.

Section 7.—I am not in favour of permitting an employer to make deductions on the principle that

a deduction may be made so long as the workers express their willingness voluntarily.

Section 7 (E).—The power given is too wide. I would suggest the omission of this sub-section. The reference to *tools and materials* supplied by the employer which was included in the Bill introduced in 1933 is omitted in the present Bill with the *evident object* that there should be no deduction for this purpose. It is open to Local Governments to interpret “service” to include supply of tools and materials. This must be prevented.

Section of British Truck Act of 1887 gives power to employees to appoint auditors of the accounts

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of the services provided by employers. The Bill should make provision for this.

For proper payment of wages statutory provision should be made for the inspection of weights and measures used by the employers for ascertaining the production for which wages are paid. Such a provision is made by the British Factory Act, section 117. Statutory provision on the lines of British Act of 1919 should also be made for the introduction of a system by which the employees who are paid according to the weight or measurement of the material produced or handled, are permitted to appoint a representative to check weight or measurement of the material produced or handled by them.

N. M. JOSHI.

[AS AMENDED BY THE SELECT COMMITTEE.]

(Words printed in italics indicate the amendments suggested by the Committee.)

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BILL

TO

Regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry; It is hereby enacted as follows:—

1. (1) This Act may be called the Payment of Short title, extent, commencement and applica- Wages Act, 1935. tion.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

(4) *It applies* in the first instance to the payment of wages to persons employed in any factory and * * * to persons * * * employed (*otherwise than in a factory*) upon any railway by a railway administration or, *either directly or through a sub-contractor*, by a person fulfilling a contract with a railway administration.

(5) The Local Government may, after giving three months' notice of its intention of so doing, by notification in the local official Gazette, extend the provisions of the Act or any of them * * * to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to * * * wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. In this Act, unless there is anything repugnant in the subject or context,—
Definitions.

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934; XV of 1934.

(ii) "industrial establishment" means any—

- (a) tramway;
- (b) dock, wharf or jetty;
- (c) inland steam-vessel;
- (d) mine, quarry or oil-field;
- (e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(iii) "prescribed" means prescribed by rules made under this Act; *

(iv) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890; and IX of 1890.

- (v) "wages" means all remuneration, * * capable of being expressed in terms of money, * which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable, but does not include—
- (a) the value of any house-accommodation, supply of light, water or medical attendance or other amenity ;
 - (b) any contribution paid by the employer to any pension fund or provident fund ;
 - (c) any travelling allowance or the value of any travelling concession ;
 - (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or
 - (e) any gratuity payable on discharge.

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act :

Provided that, in the case of persons employed—

XXV of 1934.

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934,
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned,

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

4. (1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

5. (1) The wages of every person employed upon or in—
wages.

- (a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,
- (b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The Governor General in Council may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working-day.

6. All wages shall be paid in current coin or current coin or currency notes or in both.

7. (1) Notwithstanding the provisions of subsection (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by this Act.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely :—

- (a) fines ;
- (b) deductions for absence from duty ;
- (c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default ;
- (d) deductions for house-accommodation supplied by the employer ;
- (e) deductions for such other services supplied by the employer as the Governor General in Council or * Local Government * * * may, by general or special order, authorise ;
- (f) deductions for recovery of advances * * or for adjustment of over-payments of wages ;
- (g) deductions * * of income-tax payable by the employed person ;
- (h) deductions * * required to be made by order of a Court or other authority competent to make such order ;
- (i) deductions for subscriptions to, and for repayment of advances from any provident fund to which the Provident Funds Act, 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922 ; and

IX of 1890.
XI of 1922.

(j) deductions for payments to co-operative * societies approved by the Local Government or to a scheme of insurance maintained by the Indian Post Office.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the Local Government or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on, or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed * * * in any one wage-period on any employed person shall not exceed an amount equal to half-an-anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No * * * * fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All * * * * fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed ; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9. (1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the premises where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which, by the terms of his employment, he was required to work.

10. (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person, unless the house-accommodation or other service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation supplied or the service rendered and, in the case of a deduction under the said clause (e), shall be subject to such conditions as the Governor General in Council or the Local Government may impose.

12. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely :—

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses ;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the Local Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

13. Deductions under clause (g) of sub-section (2) of section 7 shall be subject to such conditions as the Local Government may impose.

14. (1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, XXV of 1934, shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

(2) The Governor General in Council may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The Local Government may, by notification in the local official Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document, and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian XLV of 1860. Penal Code.

15. (1) The Local Government may, by notification in the local official Gazette, appoint any *Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate* to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) *the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or*

(c) *the failure of the employed person to apply for or accept payment.*

(4) Any amount directed to be paid under sub-section (3) may be recovered in the manner provided in the Code of Criminal Procedure, 1898, V of 1898, for the recovery of fines.

(5) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application, and any such penalty may be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of fines. V of 1898.

16. (1) Employed persons (whether upon a railway or in a factory or other industrial establishment) are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) *The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.*

17. (1) An appeal against a direction made under sub-section (3) of section 15 may be preferred, within thirty days of the date on which the direction was made, in a Presidency town before the Court of Small Causes and elsewhere before the District Court—

(a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or

(b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or

(c) *by any person directed to pay a penalty under sub-section (5) of section 15.*

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (5) of section 15 shall be final.

18. Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898.

V of 1908.

V of 1898.

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

20. (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4 or of section 6 * * * shall be punishable with fine which may extend to two hundred rupees.

21. (1) No Court shall take cognizance of a person for an offence under sub-section (1) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except

on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

- Bar of suits.*
- (a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or
 - (b) has formed the subject of a direction under section 15 in favour of the plaintiff; or
 - (c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or
 - (d) could have been recovered by an application under section 15.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

24. The powers by this Act conferred upon the Local Government shall be exercised by the Governor General in Council in any case in which the exercise of such powers affects any persons employed by a railway administration.

25. There shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

26. (1) The Governor General in Council may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The Local Government may, subject to the control of the Governor General in Council, by notification in the local official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, * rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, * returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;

- (b) *require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises ;*
- (c) *prescribe the manner of giving notice of the days on which wages will be paid ;*
- (d) *prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed ;*
- (e) *prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10 ;*
- (f) *prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended ;*
- (g) *prescribe the * * * extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12 ;*
- (h) *regulate the scales of costs which may be allowed in proceedings under this Act ;*
- (i) *prescribe the amount of court-fees payable in respect of any proceedings under this Act ; and*
- (j) *prescribe the abstracts to be contained in the notices required by section 25.*

(4) In making any rule under this section the Local Government may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published.

X of 1897.

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GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the Bill
to regulate the payment of wages to
certain classes of persons employed in
industry; with the Bill as amended.

5

LEGISLATIVE ASSEMBLY.

We, the undersigned, members of the Select Committee to which the Bill further to amend the Code of Criminal Procedure, 1898, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have considered the possibility of modifying the Bill by substituting for the complete elimination of the first proviso to section 406 of the Code of Criminal Procedure, 1898, a provision that either the approval or the recommendation of the High Court should be a condition precedent

to action by the Local Government under that proviso. A majority of the Committee are in favour of retaining intact the substance of the Bill.

3. The only change which we have made in the Bill is of a drafting nature and is self-explanatory.

4. The Bill was published in the Gazette of India, dated the 16th February, 1935.

5. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

SIMLA :
The 31st August, 1935.

N. N. SIRCAR.
H. D. CRAIK.
L. GRAHAM.
SANT SINGH.
ASAF ALI.
GHULAM BHIK NAIRANG.
S. N. SINHA.
SHAM LAL.

26
[AS AMENDED BY THE SELECT COMMITTEE.]

(Words printed in italics indicate the amendments suggested by the Committee.)

A

BILL

Further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898; It is hereby V of 1898. enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 193 .
Short title.
2. In section 406 of the Code of Criminal Procedure, 1898, the *first proviso* V of 1898. Amendment of section 406, Act V of 1898. *viso and the word "further" in the second proviso shall be omitted.* * *

GOVERNMENT OF INDIA
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill further to amend the Code of Criminal
Procedure, 1898 ; with the Bill, as amended.