



ASCENSION

REVISED EDITION OF THE LAWS, 2017

EMPLOYMENT AND COMMERCE

WORKMEN'S PROTECTION ORDINANCE, 1926¹

Ordinance SH5 of 1926

In force 17 May 1926

Amended by L.N.3/1967, Ordinance A4/1978

Subsidiary legislation:

WORKMEN'S PROTECTION REGULATIONS, 1926

Legal Notices 3 of 1926, A1 of 1978 and A2 of 1998)

WORKMEN'S PROTECTION ORDINANCE, 1926²

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AN ORDINANCE relating to the protection of workmen engaged for service on Ascension.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

² Enacted in St Helena as the Workmen's Protection (Ascension) Ordinance, 1926.

Short title

1. This Ordinance may be cited as the Workmen’s Protection Ordinance, 1926.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
 “**contract of service**” means a contract of service to be performed in whole or in part within Ascension but does not include a contract of apprenticeship or a contract for the employment of a domestic servant;
 “**employer**” includes any person, firm, corporation or company employing workmen and also the attorney, agent, manager, factor or foreman of any such person, firm, corporation or company;
 “**workman**” means any person who ordinarily gains his or her livelihood by performing manual or clerical work for hire and includes any person who in fact is hired to perform manual or clerical work or as foreman, ganger, or in any like capacity directly to supervise the performance of manual or clerical work by other persons.

Contracts of service compulsory

3. (1) Subject to subsection (2), every employer desirous of engaging a workman or workmen for service in Ascension must enter into a separate contract of service in accordance with the provisions of this Ordinance with each workman so engaged:

(2) The Governor may, on the application of any workman, exempt the engagement of such workman for service in Ascension from the provisions of this Ordinance if the Governor is of the opinion that such exemption is in the circumstances of the case desirable.

Contracts to be in writing in prescribed forms

4. Every contract of service entered into as provided in section 3 must be in writing in the form prescribed in the Schedule, or to the like effect, and signed by the parties to it, and be attested by a Justice of the Peace or some Government officer duly appointed by the Governor.

Illiterates

5. No contract of service is enforceable as against any workman who is unable to read and understand writing, unless it bears an attestation under the hand of a Justice of the Peace or of some officer of Government appointed by the Governor to the effect that the contract was read over and explained to the workman in the presence of such Justice of the Peace or officer of Government and was entered into by him or her voluntarily and with full understanding of its meaning and effect.

Contract accurately to set out terms

6. No contract of service is enforceable as against a workman unless it specifies as accurately as may be—

- (a) the nature of the service;
- (b) the place or limits within which the service is to be performed;
- (c) the duration of the contract;
- (d) the remuneration to be paid;
- (e) the provision to be made by the employer for the return of the workman at the termination of the contract to the place whence he or she was engaged; and
- (f) an undertaking to provide any medical or dental attention for the workman prescribed by regulation made by the Governor.

Security by absentee employers

7. If the employer is a corporation or company registered outside St Helena or Ascension or a person not ordinarily residing or carrying on business within St Helena or Ascension, or if for any reason in the opinion of the Governor it is desirable in the interests of any workman, the Governor may require the employer to—

- (a) provide an address to which communications intended for the employer can be sent for up to 2 years from the date of the contract; and
- (b) give security for the due performance of the contract in a manner and to an amount prescribed by regulations.

Institution of proceedings

8. (1) If –

- (a) a workman institutes legal proceedings in a court of competent jurisdiction in St Helena or Ascension to recover from an employer any sum alleged to be due by way of wages or otherwise under a contract of service or by way of damages for loss sustained or injury received during the period of duration of a contract of service; and
- (b) the employer is a corporation or company registered outside St Helena or Ascension, and the court is satisfied that at the time the proceedings are taken the employer is not resident in St Helena or Ascension and is not likely to return to St Helena or Ascension within a reasonable time,

the court may direct that notice of the proceedings is to be sent to the employer by registered letter directed to the registered office of such corporation or company or to the address given by such employer pursuant to section 7 (a).

(2) If, after the lapse of a time the court considers reasonable (to be stated in the notice) the employer does not enter an appearance to the action, the court must hear and adjudicate on the matter without further delay and may direct that any sum found to be due to the workman is to be recovered under the security entered into in accordance with section 7 (b).

Security for punctual repatriation

9. The Governor may require any employer to provide security for the punctual repatriation of all time-expired labourers, their spouses and children and of any sick labourer or the spouse or child of any labourer who in the opinion of a duly qualified medical officer should be repatriated, or of any labourer or member of his or her family who is declared by the Governor an undesirable person.

Governor's powers on default by employer

10. If an employer at any time fails to repatriate any workman within a reasonable period after the date when he or she should have been repatriated or fails to perform any act required by this Ordinance or regulations made under it –

- (a) the Governor may, at the expense and responsibility of the employer, cause the workman to be repatriated or such act to be performed; and
- (b) the employer commits an offence.

Penalty: As provided in section 15.

Governor may delegate powers

11. The Governor may delegate all or any of the powers vested in the Governor by or under this Ordinance (the power to make regulations excepted) to the Controller of Labour or other officer the Governor appoints for the purpose.

Regulations

12. The Governor may make regulations for the better operation of this Ordinance, and in particular, but without limiting that power, prescribing—

- (a) the places outside Ascension in which workmen may be recruited for employment in Ascension;
- (b) the form of contract to be entered into by employers and workmen pursuant to this Ordinance;
- (c) the form and amount of the security to be given by an employer for the due performance of the contract;
- (d) the housing accommodation, food rations, cold storage, and medical or dental service to be provided by employers for workmen recruited from outside Ascension;
- (e) the conditions to be observed by employers in the transport of workmen to Ascension by sea;
- (f) the supply of fresh water for workmen engaged under this Ordinance;
- (g) the provision to be made by an employer for the maintenance of good order and conduct among the workmen engaged under this Ordinance; and
- (h) the conditions to be observed by an employer as to the repatriation of workmen recruited from outside Ascension.

Assets of employer to be charged

13. If an employer abandons operations in Ascension, or becomes bankrupt or goes into liquidation, any sums due from the employer to a workman engaged by the employer under this Ordinance, and any expenses incurred in repatriating any such workman, constitute a first charge upon the assets of such employer in St Helena and Ascension.

Offences

- 14.** It is an offence for a person to –
 - (a) induce or attempt to induce any workman to proceed to Ascension for the purpose of employment, other than as a domestic servant or under a contract of apprenticeship, without having previously entered into a written contract of

service in all respects in accordance with the provisions of this Ordinance and regulations made under it;

- (b) fail to repatriate any workman within a reasonable period after the termination of his or her contract of service or otherwise after due date; or
- (c) contravene any provision of this Ordinance and the regulations.

Penalties

15. A person who commits an offence under this Ordinance or the regulations is liable on conviction to a fine of £50 or imprisonment for one year, or both.

SCHEDULE

(Section 4)

FORM OF CONTRACT

This Agreement made the day of, 20.....
 Between of (hereafter called “the Employer”) of the one part and
 of (hereafter called “the Workman”) of the other part
 Witnesses as follows:—

1. The Employer agrees to hire the Workman and the Workman agrees to serve the Employer in the capacity of at for the period of commencing from at the rate of per
2. The Employer will provide suitable living accommodation for the Workman.
3. [Here insert other benefits such as food or subsistence allowance, free medical attention, etc., to be provided.]
4. The Employer agrees to make the following provision for the return of the Workman to at the termination of this contract, namely:—
 Provided nevertheless that the Workman, if so desired by the Employer, will continue to give his/her services during the period from the date of the expiring of the term of service provided by this contract and the date of sailing of the first steamer by which the Workman can be repatriated, and it is hereby mutually agreed that all the terms and provisions of this contract will continue to be in full force and operation in respect to such continued service.
5. The Workman contracts with the Employer to serve the employer faithfully and to the best of his/her ability during the continuance of this contract. The Workman agrees to submit to medical examination from time to time as required by the Employer, or by any laws or regulations under them.
6. This contract is made pursuant to and subject to the provisions of the Workmen’s Protection Ordinance, 1926 and to the rules for the time being in force under it and is to be interpreted and enforced in accordance with the laws for the time being in force in Assam.

In Witness whereof the parties hereto have set their hands the day and year first above written.

Signed by the Employer in the presence of me the undersigned
Attesting Officer. } A.B.

Signed by the Workman in the presence of me the undersigned
Attesting Officer. } C.D.

The above-named parties set their hands hereunto having assented to and confirmed the above written agreement, the same having been read over and explained to them in my presence, and they acknowledge having entered into the said agreement voluntarily and with full understanding as to the meaning and effect of it.

.....
Attesting Officer
(J.P., or as the case may be).

WORKMEN'S PROTECTION ORDINANCE, 1926

WORKMEN'S PROTECTION REGULATIONS, 1926
(Section 12)

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Citation

1. These Regulations may be cited as the Workmen's Protection Regulations, 1926.

Contract of service

2. (1) A contract of service must be entered into with each workman before he or she embarks at the place of recruitment.

- (2)** No workman may be engaged for a longer period than –
- (a)* in the case of St Helenians - 3 years, or, if married and not accompanied by wife, two years;
 - (b)* in any other case - such period as the Governor approves:

But this regulation does not prevent any workman from entering into a fresh contract of service at the termination of his or her engagement if he or she wishes to do so. A signed or certified copy of every contract of service or renewal of it must shall be lodged without delay in the office of the Controller of Labour or such other officer as the Governor appoints.

Repatriation

3. An employer must repatriate any workman with his or her dependants within 30 days of the expiration of his or her contract of service, and must repatriate at the first available opportunity –

- (a)* any workman required by certificate under the hand of the Medical Officer to be repatriated; and
- (b)* on demand by the Controller of Labour, any workman or member of his or her family deemed by the Controller to be an undesirable person.

Information as to conditions of life in Ascension

4. An employer or employer's agent must, when engaging any workman, explain fully the nature of the work on which he or she is to be employed, the conditions of living obtaining in Ascension, and especially the arrangements that have been made or will be made as to—

- (a)* housing;
- (b)* provision for cooking and messing;
- (c)* water rationing;
- (d)* control of alcohol;
- (e)* pass system and limitation of bounds;
- (f)* protection of birds and turtles.

Housing accommodation

5. An employer must provide suitable housing accommodation for the workman and for members of his or her family who accompany him or her. The accommodation provided must have been approved by the Governor or other officer appointed by him or her for the purpose before such workman or member of his or her family is permitted to land.

Standard rations

6. An employer must, if required to do so by the Governor, establish standard ration schedules in respect of each various race or class of workmen. Such schedules are subject to approval by the Governor, and must be communicated and explained to each workman before any contract of service is entered into by him or her.

Cold storage

7. An employer must provide all necessary cold storage to the satisfaction of the Governor for the proper maintenance of food supplies, and maintain as a minimum reserve sufficient foodstuffs for a period of 2 months.

Water supply

8. An employer must furnish and maintain a proper supply of fresh water, and further provide a reserve supply sufficient to cover a period of 2 months.

Medical attendance

9. (1) An employer must make provision to the satisfaction of the Governor for employees and their dependants to receive all necessary medical, dental and surgical treatment, including treatment in hospital as in-patient or out-patient, under the care of a qualified medical officer.

(2) For the purpose of this regulation, the term “**provision**” includes the payment of all legitimate costs incurred, including accommodation and internal transport costs, in circumstances where an employee or his or her dependants are referred abroad for medical or surgical treatment.

Dry canteen

10. An employer may be required by the Governor to open and maintain a dry canteen for the convenience of the workmen employed. The charges in respect of goods sold at such canteen must be limited to cover the actual expenses involved in maintaining the canteen.

Recreation

11. An employer may be required to provide and maintain a suitable sports ground for the use of the workmen employed and to take reasonable steps to provide opportunities for their recreation.

Requirements of medical and sanitary administration

12. An employer must at all times comply with the reasonable requirements of the Government in respect to medical and sanitary administration, and the social welfare of all workmen employed by the employer in Ascension.

Special police force

13. (1) An employer, for the purpose of maintaining good order and conduct among employees, may be required by the Governor to provide the necessary quarters for and to defray the expenses involved in the equipment and maintenance (including expense of medical attendance) of a special police force, comprising such establishment as the Governor from time to time determines.

(2) Members of such a police force must be recruited, so far as possible, in the country from which the workmen are recruited.

(3) A police force established under this regulation is under the direct control and sole direction of the Controller of Labour or such other officer as the Governor appoints, who must issue pay to the members of the police force out of funds provided by the employer.

Plans of buildings

14. Before erecting any buildings for use as quarters, kitchens or latrines, an employer must obtain the approval in writing of the Governor, or of such other officer as the Governor appoints for the purpose, of the plans of the buildings and the sites selected for them.

Lock-up

15. An employer must, if required by the Governor, provide a lock-up, to be approved by the Controller of Labour. The employer must defray the cost of maintenance of any workman serving a term of imprisonment.

Cessation of business or failure of water supply

16. (1) If an employer ceases to carry on operations in Ascension, or if the water supply which he is required to provide fails, an employer must repatriate all workmen in the employer's employment.

(2) If such workmen have not embarked in one week after the date of such cessation or failure, the Governor may take steps to repatriate them, and any expenses incurred in such repatriation are recoverable under the security provided for above.

Transport

17. An employer or employer's agent must not embark any workmen upon any ship for transport to or from Ascension until the accommodation provided in such ship has been approved in writing by the Port Medical Authority at the port of embarkation.

Provision as to deviation in charter parties

18. For the purpose of providing against any emergency in the matter of repatriation of workmen, an employer must take powers of deviation as and when necessary in charter parties entered into by the employer or on the employer's behalf in respect to the operations of the company.

Compliance with law of country of recruited workmen

19. These Regulations do not exempt any employer recruiting workmen in any place outside Ascension from complying with any conditions imposed by the law of that place on the recruitment of workmen.
