

EXTRACTS OF THE EMPLOYMENT ACT 1955

Section 31. Priority of wages over other debts.

(1) Where by order of a court made upon the application of any person holding a mortgage, charge, lien or decree (hereinafter referred to as "the secured creditor") or in the exercise of rights under a debenture the property of any person (hereinafter referred to as "the person liable") liable under any of the provisions of this Act to pay the wages due to any employee or to pay money due to any contractor for labour is sold, or any money due to the person liable is attached or garnished, the court or the receiver or manager shall not authorize payment of the proceeds of the sale, or of the money so attached or garnished, to the secured creditor or the debenture holder until the court or the receiver or manager shall have ascertained and caused to be paid, out of such proceeds or money, the wages of such employee, or the money due to any contractor for labour under a contract between him and the person liable, which the person liable was liable to pay at the date of such sale, attachment or garnishment:

Provided that this section shall only apply to the sale of a place of employment on which—

- (a) any employee to whom wages are due as aforesaid;
- (b) any employee to whom wages are due by such contractor for labour as aforesaid;
- (c) any contractor for labour to whom money is owed on account of the sub-contract by the contractor for labour as aforesaid,

was employed or worked at the time when such wages were earned or such money accrued due, and to the proceeds of the sale of any products of such place of employment and of any movable property therein used in connection with such employment and to any money due to the person liable on account of work performed by such employee or contractor for labour or derived from the sale of the products of such work:

Provided further that—

- (a) where the person liable is an employer the total amount of the wages of any employee to which priority over the claim of a secured creditor is given by this section shall not exceed the amount due by the employer to the employee as wages for any four consecutive months' work;
- (b) where the person liable is a principal and where the wages are claimed from such principal under section 33 the total amount of the wages of any employees to which priority over the claim of a secured creditor is given by this section shall not exceed the amount due by the principal to the contractor at the date of the sale, attachment or garnishment unless the contractor is also a contractor for labour;
- (d) where the person liable is a contractor or contractor who owes money to a contractor for labour the total amount due to such contractor for labour to which priority over the claim of a secured creditor is given by this section shall not exceed the amount due by such contractor for labour to his employees (including any further contractors for labour under such first-mentioned contractor for labour) for any four consecutive months' work.

(2) In this section, except for the second proviso, "wages" includes termination and lay-off benefits, annual leave pay, sick leave pay, public holiday pay and maternity allowance.

[Am. Act A1419 of the year 2012]

Section 2. Interpretation

According to section 2(1), the expression "wages" means basic wages and all other payments in cash payable to an employee for work done in respect of his contract of service but does not include—

- (a) the value of any house accommodation or the supply of any food, fuel, light or water or medical attendance, or of any approved amenity or approved service;
- (b) any contribution paid by the employer on his own account to any pension fund, provident fund, superannuation scheme, retrenchment, termination, lay-off or retirement scheme, thrift scheme or any other fund or scheme established for the benefit or welfare of the employee;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum payable to the employee to defray special expenses entailed on him by the nature of his employment;
- (e) any gratuity payable on discharge or retirement; or
- (e) any annual bonus or any part of any annual bonus.
